



To: Executive Councillor for City Centre & Public Places
(and Deputy Leader): Councillor Carina O'Reilly

Report by: Director of Environment

Relevant scrutiny committee: Community Services Scrutiny Committee 16/10/2014

Wards affected: All wards

S106 PRIORITY-SETTING AND DEVOLVED DECISION-MAKING

Key Decision

1. EXECUTIVE SUMMARY

- 1.1 This report takes stock of how the S106 priority-setting process (with devolved decision-making to area committees over the use of some types of developer contributions) has operated over the last two years.
- a. The process has given local communities more say on how S106 contributions are used locally on new/improved facilities. More projects have been taken forward across all four areas of the city.
 - b. Thirty six S106-funded projects have been completed over the last two years. At the same time, another 35 projects are still being implemented. There are competing pressures to focus on delivering projects that have already been identified and to respond to local expectations to allocate further S106 funding to new priorities.
 - c. Cambridge is fortunate to still have significant S106 contributions available, but this will change (see Appendix A). The level of S106 income is set to taper off within a few years. Future S106 priority-setting rounds will eat in to the S106 funding available, causing it to run down. This reinforces the need to make sure that S106 contributions are used to greatest effect – to address the impact of development and, as far as possible, needs within the city.
- 1.2 In this context, this report proposes to continue with further S106 priority-setting, but to fine-tune the principles behind S106 devolved decision-making. In addition, it is proposed that the next (third) round on S106 priority-setting this autumn should be confined to projects that can be grant-funded.

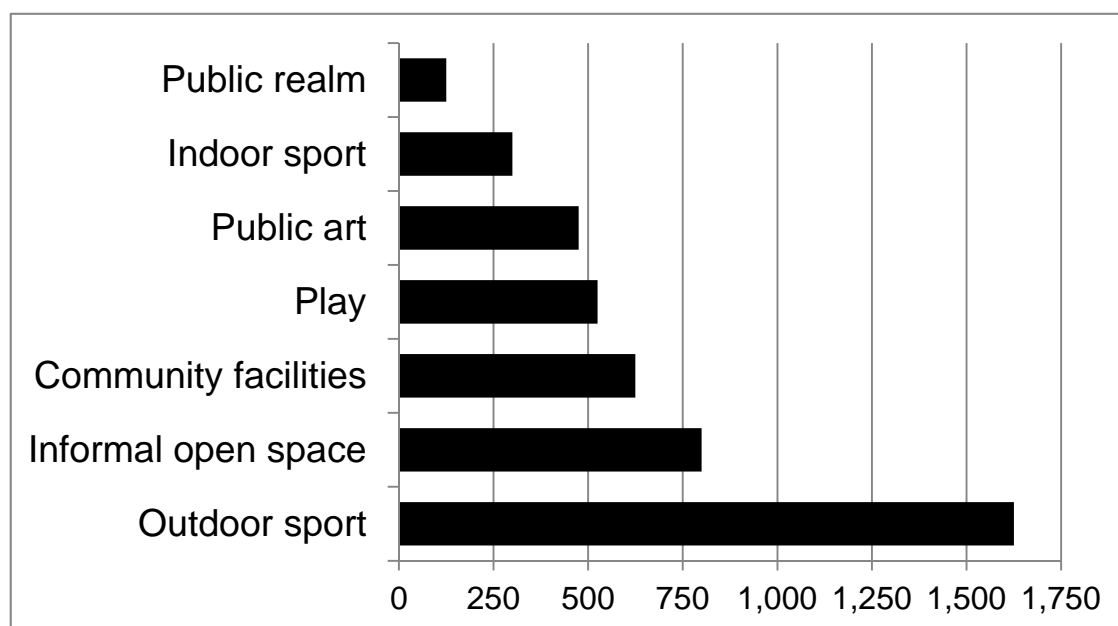
2. RECOMMENDATIONS

- 2.1 The Executive Councillor for City Centre and Public Places is recommended to:
- a. re-focus devolved decision-making to area committees within future S106 priority-setting rounds on developer contributions for community facilities, informal open space, outdoor sports provision (incorporating formal open space) and play provision for children and teenagers [see paragraph 4.1];
 - b. continue to include developer contributions for indoor sports provision, public art and public realm in future S106 priority-setting rounds, but return the decision-making for these contribution types to the relevant Executive Councillor [paragraph 4.2];
 - c. adapt the method for devolved S106 funding to areas to reflect the fact that area committees no longer make planning decisions: this will be based on 100% of S106 contributions from 'minor'/'other' categories of planning applications from the area and 50% of S106 contributions from the 'major' category planning applications from the area [see paragraphs 4.3];
 - d. adapt the method for assigning S106 funding to strategic funds (for use of projects benefitting more than one area of Cambridge, or the city as a whole): this will be based on the other 50% of S106 contributions from the 'major' category of planning applications;
 - e. confirm that the 50:50 split (devolved:strategic) of S106 contributions from major planning applications can continue to be varied on a case-by-case basis, following officer discussions with the relevant Executive Councillor;
 - f. agree that the next (third) S106 priority-setting round, scheduled for November 2014-February 2015, should be focussed on prioritising schemes suitable for S106 grant-funding [see Section 5];
 - g. agree that a fourth S106 priority-setting round, currently proposed to take place between June 2015-January 2016) should focus on the wider range of S106 contribution types, including proposals for projects which would involve project management and/or delivery by the city council.
- 2.2 Although not a recommendation for this current report, please note the discussion in Appendix E about the issues relating to the S106 funding for the Rouse Ball Pavilion project on Jesus Green.

3. BACKGROUND

- 3.1 The council asks developers to pay S106 contributions for new or improved facilities in order to address the impact of development. This currently happens via Section 106 agreements in line with the council's Planning Obligations Strategy 2010. See the Rough Guide to developer contributions funding in Appendix A.
- 3.2 Over the last two years, the council has devolved to area committees decision-making over the use of devolved S106 contributions from planning approvals in their respective areas. At the same time, half the S106 contributions from (major) developments approved by the Planning Committee have been assigned for use on strategic projects (benefitting more than one area or the city as a whole): decisions on strategic priorities are made by the relevant executive councillor. Appendix B features a summary of the current arrangements.
- 3.3 There have been two S106 priority-setting rounds in 2012/13 and 2013/14, which have incorporated the devolved decision-making approach. During that time, the council has completed 36 S106-funded projects. Another 35 (including most of the project priorities identified in the 2nd priority-setting round in late 2013/early 2014) are on-going. See Appendices C and D for more details.
- 3.4 Whilst the council has spent in the region of £4 million on S106-funded project delivery over the last couple of years, there is still around £4.5 million of off-site developer contributions available overall for the contribution types featured in this report. The impact of the concerted efforts on improved S106 management and project delivery has been masked by the receipt of around £3.7 million of off-site S106 contributions (ie, not including on-site contributions for the growth sites) over the same period. This should take nothing away from the note of caution sounded in paragraph 1.1(c).
- 3.5 A top-level analysis of available S106 contributions (received but not yet allocated to other projects) can be found in Table 1. The main point to note is the variation in funding availability of S106 funding across the different S106 contribution types. This reflects both the S106 contributions that have requested and received and the nature of projects that have been funded in recent years. Few projects based on S106 outdoor sports funding were prioritised in the first two rounds of S106 priority-setting ahead of the development of the council's Sport and Physical Activity Strategy last March. Now that this strategy is in place, there is a real opportunity to identify outdoor sports projects in the third (granting-funding) and fourth priority-setting rounds in 2014/15 and 2015/16 respectively.

Table 1: Availability (£000) of S106 funding in Cambridge (overall)



- 3.6 A more detailed analysis of S106 contributions devolved to each area is currently being developed. Each area committee will receive a breakdown of its devolved funding - this information will be made available on the council's website. As highlighted to this Committee in previous reports, the level of devolved S106 funding available varies greatly from area to area: this broadly reflects differing levels of development across the city. The South Area tends to have significant levels of S106 funding in most contribution types whereas the North Area has comparatively very low levels.

4. PROPOSED CHANGES

This section focuses on the reasoning behind recommendations (a) - (e) under paragraph 2.1,

- 4.1 As part of the arrangements introduced in 2012, devolved decision-making applies to seven main contribution types (see Appendix B). This currently works well in the case of four contributions types (outdoor sports facilities, informal open space, community facilities and play provision for children and teenagers), given the overall levels of funding available.
- Although the contributions for play provision are not as high as the other three contribution types, a number of play projects allocated S106 funding in recent years are in the £25k-£50k price bracket, so it is anticipated there will still be possibilities for most/all area committees to prioritise one or more play area improvement.
 - In this context, it is recommended (in 2.1a) that area committees continue to have devolved decision-making powers over the use of their devolved S106 funding for these four contribution types.

- 4.2 Opportunities for taking forward projects funded by S106 contributions for indoor sports, public art and public realm have been more limited, however, given the levels of funding available (again, see Table 1). The situation is exacerbated by these scarce resources, which are intended for use anywhere within the city, anyway) being spread thinly across four area (devolved) funds and the strategic fund. Consequently, (with the exception of a couple of local priority projects), it has not been possible to consider other options for new indoor sports, public art or public realm projects in the last two priority-setting rounds. The proposed way forward is as follows.
- a. Aggregate the funding within each of these contribution types so that there is enough money available in a city-wide fund to make it more possible for future projects to be considered.
 - b. Decisions on the use of the S106 funding in these city-wide funds will still be part of future S106 priority-setting rounds and will be informed by S106 consultations (eg, in the 3rd and 4th rounds).
 - c. Decisions on priority-setting will be made by the relevant portfolio-holder (ie, the Executive Councillor for Community, Arts and Recreation for indoor sports contributions and the Executive Councillor for City Centre and Public Places for public art and public realm contributions).
- 4.3 Following a report to the Environment Scrutiny Committee on 8 July 2014, the Executive Councillor for Planning Policy and Transport decided to rescind the delegation of powers to area committees to determine planning applications with effect from 1 October 2014. This has implications for the current method of assigning devolved S106 funding to area committees, and this latest report provides the opportunity to tie up the loose end.
- a. A comparison of the current and proposed methods for devolving funding to area committee is set out in Table 2. Given that area committees used to consider mainly minor planning applications and the Planning Committee major ones, the new assignment method bears a strong similarity to the previous arrangement.
 - b. The recommendation in 2.1(e), to confirm that the 50:50 split (devolved:strategic) of S106 contributions from major planning applications can continue to be varied on a case-by-case basis, is simply a repeat of current practice (see paragraph B4b in Appendix B).
- 4.4 Officers have also considered whether it would be possible to revise the definition of what constitutes 'strategic' projects for the use of S106 contributions in the strategic fund in order to allow more explicit

Table 2: Proposed new method for assigning S106 funding

Current method	Proposed method
Devolved funding: <ul style="list-style-type: none">• 100% of S106 contributions from planning applications from the area, agreed by the area committee or determined by officers (delegated authority)• 50% of S106 contributions from applications from the area, agreed by the Planning Committee	Devolved funding: <ul style="list-style-type: none">• 100% of S106 contributions from 'minor'/'other' planning applications from the area• 50% of S106 contributions from 'major' planning applications from the area
Strategic funding: Based on the other 50% of contributions from applications, agreed by the Planning Committee.	Strategic funding: Based on the other 50% of S106 contributions from 'major' planning applications

emphasis on addressing significant need in Cambridge. For example, the Cambridgeshire Index of Multiple Deprivation 2010 shows there are high levels of disadvantage in parts of the North and East Area.

- a. When devolved decision-making system was introduced two years ago, 'strategic' projects were defined as those projects benefitting more than one area or the city as a whole. Consideration of a revised definition has been prompted by the development of the council's Anti-Poverty Strategy, which is to be reported to the Strategy & Resources Scrutiny Committee later this month.
- b. An over-riding consideration, however, is that the primary purpose of developer contributions is to address the impact of development, not deprivation as such. Officers also need to apply the tests set out in official guidance (ODPM Circular 05/05 and the CIL Regulations 2010) to ensure the use of particular contributions would be appropriate to fund particular projects (see Appendix A).
- c. It has, therefore, been concluded to continue with the existing definition of a project eligible for S106 strategic funding.
 - (i) Within that broad definition, however, officers will be mindful of opportunities that may arise to locate new facilities that would benefit the city as a whole in those areas with the greatest needs. This could strengthen the justification for the use of S106 developer contributions in the S106 strategic fund from other parts of the city.
 - (ii) In order to increase the level of contributions available to particular areas under specific contribution types, the relevant Executive Councillors may also wish to consider, in future,

whether to release back to an area those S106 contributions from that area that have been assigned to the strategic fund. There are two examples from the last two years where this has already been done: in relation to play provision contributions for North and East areas (January 2013) and informal open contributions for North Area (October 2014).

- 4.5 In response to feedback about the process from North and East areas during the last two years, officers will also look to compile area profiles to inform S106 consultations and priority-setting. These could include:
- demographic data and social research statistics
 - mapping information about existing local facility provision
 - officer advice about possible options to help address local needs
 - and an analysis of the levels of devolved funding available for the area by contribution type.

Whilst this will help to provide useful context, these profiles will not provide all the answers. Area committees will still need to use their local knowledge in making difficult priority-setting decisions.

5. NEXT S106 PRIORITY-SETTING ROUNDS: PROPOSED PROCESS

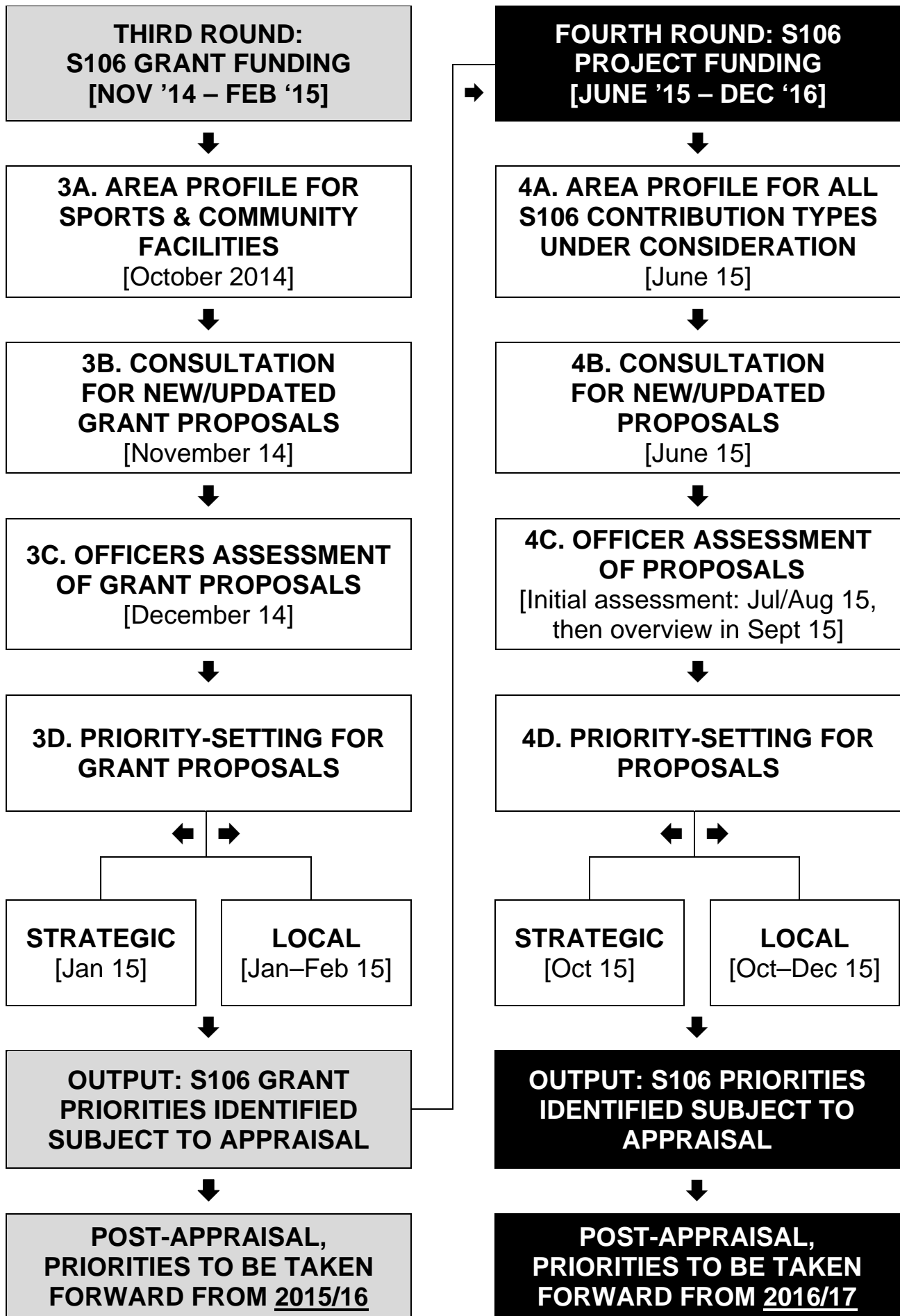
- 5.1 Previous scrutiny committee reports on S106 devolved decision-making process mentioned the likelihood of further priority-setting beyond the first two rounds. From contacts made to local councillors and officers by local residents and community groups over recent months, it is clear that there is a real interest in seeking S106 funding for further local project proposals, particularly for grant-funding.
- 5.2 At the same time, given the number of S106 priority projects on the council's Capital Plan that are still being implemented (Appendix D) - not least projects from the second priority-setting round - there have been calls to focus on delivering those, without adding further projects that would involve project management and delivery by the council. These concerns coincide with the on-going review of the council's Capital Plan, which is looking at whether there is scope to reduce the number of projects already on the list in order to relieve pressures on council budgets and available staffing resources for project delivery.
- 5.3 This report proposes a way forward between these competing pressures. Table 3 suggests that the next (third) priority-setting round this autumn should focus on projects that can be grant-funded from developer contributions. Processing grants for projects being taken forward by local community groups, involves much less officer time than projects being managed and delivered by the council. This would enable council officers to focus on delivering of existing S106 priority projects before a wider (fourth) priority-setting round in 2015/16.

Table 3: Next priority-setting rounds – key features

	3rd round	4th round
Focus on	Project proposals that can be grant-funded from S106 contributions	All proposals (either for S106 grant-funding or management/ delivery by the council)
Contribution types being considered	Those suitable for S106 grant funding: <ul style="list-style-type: none"> • community facilities • indoor sports • outdoor sports and (possibly), public art – (small-scale projects by local groups) 	<ul style="list-style-type: none"> • community facilities • informal open space • play provision for children and teens • indoor sports • outdoor sports • public art • public realm
Area Committees will prioritise local proposals for:	<ul style="list-style-type: none"> • community facilities • outdoor sports facilities 	<ul style="list-style-type: none"> • community facilities • informal open space • play provision for children and teens • outdoor sports
Relevant Exec Councillors will prioritise proposals	<p>Strategic proposals for:</p> <ul style="list-style-type: none"> • community facilities • outdoor sports facilities <p>And all proposals for:</p> <ul style="list-style-type: none"> • indoor sports facilities 	<p>Strategic proposals for:</p> <ul style="list-style-type: none"> • community facilities • informal open space • play provision • outdoor sports <p>And all proposals for:</p> <ul style="list-style-type: none"> • indoor sports facilities • public art • public realm
Consultation	Primarily for local community groups with capital project proposals	Local residents and community groups
When	Consultation in November 2014 followed by priority-setting reports to area & scrutiny committees in January/February 2015	(Provisional) consultation in June '15 followed by priority-setting reports to area/scrutiny committees between Oct-Dec 2015
When could priorities be taken forward	From 2015/16 (depending on the readiness of grant-funded priority projects)	From 2016/17 (depending on the readiness of priority projects)

Table 4 sets out the process within the priority-setting rounds in more detail.

Table 4: S106 priority-setting process for 3rd and 4th rounds



5.4 Please note the following points about the process set out in Table 4.

- a. Visits are being made to all four area committee meetings in mid-late October 2014 in order to brief them on the process for the next S106 priority-setting rounds. This will also provide an update on progress on the delivery of S106 projects prioritised by the area committees in the last two rounds. These briefing sessions will not involve making any priority-setting decisions at this stage – this will follow (for proposals for S106 grant-funding) at the area committee meeting next January/February, once the consultation has taken place this November.
- b. The consultation this November (step 3B) will be focussed on seeking new/updated proposals for projects which could be grant-funded from developer contributions. Brief area profiles will be made available as contextual information for consultees. This consultation will welcome comments either by email or by letter over a one month period. Any help that local councillors can provide in encouraging local community groups to submit proposals would be greatly appreciated (the same applies to the fourth round consultation). Further guidance will be provided but, for the time being, please see the advice in paragraph B8 of Appendix B.
- c. Any feedback received relating to proposals for projects eligible for S106 contributions, but not suitable for grant-funding, will be kept on file and reported as part of the fourth priority-setting round.
- d. Although the main consultation for the fourth round will also take place over the period of a month (provisionally, June 2015), officers plan to get in contact with local equalities groups in the meantime to encourage them to put forward their ideas for local facilities that could be funded by developer contributions. Any other resident or community group who would wish to put forward their ideas for projects before June can also do so by getting in contact with the report author (see section 9 of this report for details).
- e. The officer assessments (steps 3C and 4C) will provide an initial filter of the project ideas received through the consultation. Officers will check whether suggested projects would be eligible for S106 funding. They will also assess whether there are any particular practicalities/feasibility issues and whether the proposals have links with any of the council's policies and strategies (including the Anti-Poverty Strategy).
- f. The reports to the area and scrutiny committees in January-February 2015 will include an update on S106 funding availability

and will highlight any significant considerations relating to expiry dates attached to particular developer contributions. The report to the Community Services Scrutiny Committee is also likely to feature a recommendation on the issues relating to the Rouse Ball Pavilion project (see paragraphs E4.1-E4.5 in Appendix E). It may also highlight any opportunities and implications for future use of S106 funding arising from the on-going review of the Capital Plan.

- g. Prior to the area committee meeting at which priority-setting reports will be considered (part of steps 3D and 4D), local ward councillors will be asked to identify amongst themselves which (small number of) local proposals they would want to short-list from their ward. Each ward will be asked to identify its short-listed proposals at the start of the area committee's priority-setting discussions before the area committee decides which proposals to prioritise from its overall short-list.
- h. In setting their priorities for local and strategic grant-funded projects (step 3D), the area committees and Executive Councillors will not be confined to a certain number of grant-funded priority projects apart from considering:
 - the amounts of S106 funding available to them in the relevant contribution types (not least to consider whether they would wish to set aside a certain amount of funding for proposals likely to come forward in the fourth priority-setting round) and
 - any guidance from officers in January/February 2015 about the capacity to process S106 grants (albeit that grant-processing is less intensive than project management/delivery).

Similar considerations will also apply to priority-setting of S106 grant-funded projects in the fourth round.

- i. When it comes to prioritising projects in the fourth round that would involve project management/delivery by the council, it is likely that the area committees will be asked to confine their choices to two per area. This is so that the council can continue to manage the delivery of the council's Capital Plan within the financial and staffing resources available. The exact arrangements will be confirmed at the start of the fourth round.
- j. The priority-setting process will culminate in areas committees and relevant Executive Councillors setting their local and strategic priorities. These priorities will be subject to local consultation and project appraisal, as appropriate. Whilst relevant S106 contributions will be provisionally allocated to priorities at this point,

grant and project priorities will not be added as specific items in the Capital Plan (under the existing S106 programme entries) until project appraisals are approved.

6. IMPLICATIONS

- 6.1. **Financial Implications:** S106 contributions are not immune to the financial constraints facing the council and the city as a whole. The issues (including S106 funding availability and the context of the on-going review of the council's Capital Plan) have been highlighted in sections 3 and 5, as well as in Appendix A. For S106 grant-funded projects, the grant recipients will be responsible for the running/maintenance costs of their projects. For projects involving council project management and delivery, the running and maintenance costs tend to be the council's responsibility: this cannot be funded by S106 contributions (unless this is stipulated in the relevant S106 agreements) and the revenue implications would need to be managed within service budgets.
- 6.2. **Staffing implications:** Central to this report is the need to ensure that S106 priority-setting, grant-processing and project management and delivery can operate with the available staffing capacity.
- a. Council officers deliver a wide range of other projects on the Capital Plan (including Environmental Improvement Programme schemes) as well as S106 projects.
 - b. The focus on S106-grant funding in the third priority-setting round will enable the council's project delivery resources to progress S106 projects that are already on the Capital Plan.
 - c. Processing S106 grant-funded projects is less time-consuming/intensive than commissioning/project managing projects.
 - d. Considerations relating to the number of priorities that can be taken forward in the third and fourth rounds are addressed in paragraph 5.4 (h) and (i).
 - e. Preparations for the introduction of the Community Infrastructure Levy system are likely to have some impact on the level of staffing capacity to co-ordinate the S106 priority-setting process. For example, this may affect the amount of time available to develop area profile documents and compile priority-setting reports.
- 6.3 **Equal Opportunities implications:** The updated Equality Impact Assessment for S106 priority-setting and devolved decision-making can be found in Appendix E. The key points are that:

- a. Developer contributions have to be used to address the impact of development, first and foremost, and need to provide benefit for the whole community.
- b. The most deprived wards in the city are in the North and Areas. The North Area has significantly lower levels of S106 funding available than the other areas. The need to make sure that developer contributions are used to address the impact of development, first and foremost, is a key consideration here too. However, paragraph 4.4 (c) addresses some options available for addressing needs as far as possible.
- c. There is scope for encouraging greater engagement of equalities groups in S106 consultations on possible uses of developer contributions – this is reflected in the action plan.
- d. The run-up to the 4th priority-setting round, which is provisionally scheduled for June 2015, will provide more time to engage with groups representing equality strands in the meantime. Findings from equalities needs assessments will also be taken into account.

6.4 **Environmental Implications**

The S106 priority-setting process has a nil or low positive environmental impact. Being able to fund new/improved facilities through the use of developer contributions provides an opportunity for those facilities to incorporate energy-saving sustainability measures.

6.5 **Procurement:** This is considered as part of the project appraisal of specific S106 priority projects.

6.6. **Consultation and communication:** These issues are addressed in section 5. The consideration of proposals for S106 grant-funding will be able to take account of consultation feedback received as part of the development of the council's Sport and Physical Activity Strategy. See the advice for consultees in paragraph B8 of Appendix B – this is also featured on the Council's Developer Contributions web page.

6.7 **Community Safety:** This is considered as part of the project appraisal of specific S106 priority projects.

7. **BACKGROUND PAPERS**

These background papers on the S106 devolved decision-making process were used in the preparation of this report:

- “Devolved decision-making to area committees, report to Community Services Scrutiny Committee, 12/1/12

- “Developer contributions & devolved decision-making” (1st round), report to Community Services Scrutiny Committee, 28/6/12
- “Developer contributions: 2nd priority-setting round”, report to Environment Scrutiny Committee: 8 October 2013
- “Sport and Physical Activity Strategy”, report to Community Services Scrutiny Committee, 13/3/14
- “Changes to the consideration of planning applications at area committees”, Report to Environment Scrutiny Committee, 8/7/14
- “Anti-Poverty Strategy”, report to Strategy & Resources Scrutiny Committee, 20/10/14
- Cambridgeshire Index of Multiple Deprivation 2010 – visit www.cambridgeshireinsight.org.uk/interactive-maps/deprivation
- Response to FOI request 3202 on Planning Gain, May 2014.

Further information (including details of priority-setting reports to area and scrutiny committees, photos of completed projects and links to web pages about the Community Infrastructure Levy and the Planning Obligations Strategy can be found at the council’s Developer Contributions web page (www.cambridge.gov.uk/s106).

8. APPENDICES

- A. Rough guide to S106 developer contributions
- B. S106 devolved decision-making: current arrangements
- C. S106 priority projects completed in the last two years
- D. On-going S106 priority projects
- E. ‘On hold’ S106 projects
- F. Equality impact assessment

9. INSPECTION OF PAPERS

To inspect the background papers or if you have a query on the report please contact:

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Rough guide to S106 developer contributions

- A1. New development creates additional demands on local facilities. Through S106 agreements and unilateral undertakings (simpler versions), developers or property owners agree to pay off-site financial contributions (in lieu of providing facilities on site) in order to address the impact of that development.
- A2. Most S106 agreements and unilateral undertakings identify different contribution types for which the developer/property owner will pay contributions. The contribution types are defined in the council's Planning Obligations Strategy.
- A3. Most S106 agreements present the intended purpose of particular contributions in terms of "for the provision of, or improvement of, or better access to" [contribution type] within the city of Cambridge. Some S106 agreements identify other specific stipulations as to how a contribution should be used or whether it has to be spent or contractually committed by a particular time after the payment of the contribution (say, seven or ten years). Details of S106 agreements can be found on the Public Access page of the council's website: <https://idox.cambridge.gov.uk/online-applications//>
- A4. Developer contributions also have to comply with official regulations (eg, ODPM Circular 5/05 or the Community Infrastructure Levy [CIL] Regulations 2010). The latter sets out three tests which councils have to apply to make sure that a contribution is:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale/kind to the development.
- A5. Here are examples, based on suggestions from previous priority-setting rounds, of proposals for capital projects that have been eligible for S106 funding.
- a. New, improved or converted community centres, meeting rooms and community cafés that are open to everyone
 - b. Improved kitchens, storage and/or toilets at community centres
 - c. New/more parks & open spaces or improved access to existing ones (eg, better entrances, paths, signage, lighting and drainage)
 - d. More benches, picnic areas, litter bins, shelters, noticeboards within parks and open spaces
 - e. Improved biodiversity measures within parks and open spaces

- f. New/improved equipment for play areas and more facilities for older children/teenagers (eg, improved BMX tracks, skate parks)
- g. New/improved sports facilities (eg, tennis courts, cricket nets, basketball & multi-use games areas, outdoor gym/trim trails)
- h. New/improved sports pavilions (possibly incorporating community/social meeting space) and changing rooms
- i. Improved paving, seating, landscaping and tree-planting outside local shops, including improved access for people with disabilities
- j. Public art to commemorate Cambridge's history and local public art to highlight local identity (grants possible for small schemes).

It is also important to be clear what developer contributions cannot be used for. Please see paragraph B8 of Appendix B.

- A6. In recent years, the council has strengthened its management of S106 contributions to make sure that developer contributions are used in line with the conditions set out in S106 agreements. Most immediate issues of developer contributions with imminent expiry dates have already been addressed. More details on expiry dates relating to contributions in particular devolved and strategic funds will be reported to the relevant area and scrutiny committee in early 2015.
- A7. The planning obligations system, with its off-site S106 contributions, is set to be eventually replaced by the new Community Infrastructure Levy system. (That said, there will still be S106 agreements in relation to on-site provision of facilities within some developments). The scope for entering into new S106 agreements for off-site provision/improvement of facilities will be more constrained from next April.
- a. Whilst developer contributions from existing S106 agreements will continue to come in to the council over the next few years (as building work commences/progresses), the amount of off-site S106 funding is set to taper off thereafter.
 - b. As future S106 priority-setting rounds make use of the available funding in the council's devolved (area committee) and strategic S106 programmes, it is important to recognise that these programmes will not continue to be 'topped up' to the same extent as before. The S106 funding is finite.
 - c. Whereas paragraph 3.4 of the main report has highlighted that the council received £3.7 million of off-site S106 contributions (not including on-site contributions for the growth sites) between October 2012 and September 2014, it has been estimated that CIL could net the city council between £4-5 million over 2015/16-2019/20.

S106 devolved decision-making: current arrangements

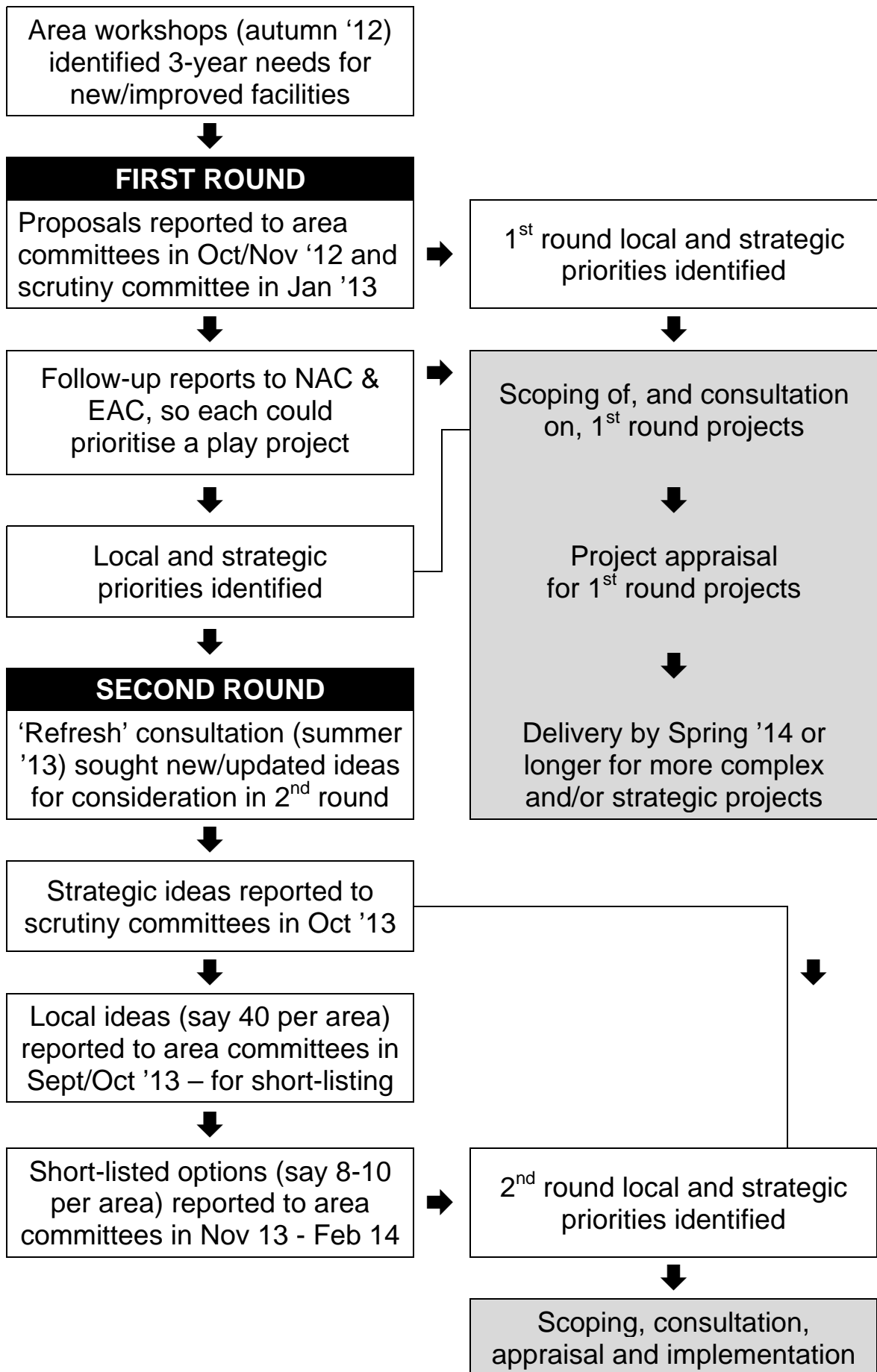
The key features of the current system were agreed following a report to Community Services Scrutiny Committee in January 2012.

- B1. Devolved decision-making applies to the following contribution types: community facilities, informal open space; play provision for children and teenagers; indoor sports facilities; outdoor sports facilities (formerly, formal open space); public art and public realm.
- B2. The area committees decide how the S106 funding devolved to them should be used on eligible local projects. Alongside this, the relevant executive councillors identify strategic projects for S106 funding, based on the amounts assigned to the strategic S106 funds. Strategic projects are those that benefit more than one area of Cambridge.
- B3. Relevant Executive Councillor for contributions in the strategic fund:

City Centre and Public Places	Community Arts & Recreation
Informal open spaces, play provision for children & teenagers, public art and public realm	Community facilities, outdoor sports facilities (incorporating formal open space contributions) and indoor sports facilities
Plus responsibility for the overall S106 priority-setting process	

- B4. Available S106 funding (ie, received by the council and not yet allocated to projects) is currently assigned to devolved and strategic S106 funds as set out in (a) and (b) below. Within the area/strategic funds, the different contribution types are kept separate as the contributions have to be used for their separate, intended purposes.
 - a. Devolved S106 funding is based on: 100% of contributions from planning applications from the area, agreed by the area committee or determined by officers under delegated authority and 50% of S106 contributions from planning applications from the area, agreed by the council's Planning Committee;
 - b. S106 funding assigned to strategic funds is based on the other 50% of contributions from applications agreed by the Planning Committee. The January 2012 report made clear that the 50:50 (devolved:strategic) split could be varied on a case-by-case basis, following officer-executive councillor discussions.
- B5. The relevant Executive Councillor has the power to reallocate any devolved contributions getting close to 'expiry dates' to schemes that would enable the money to be used appropriately and on time.

B6. There have been two S106 priority setting rounds in 2012/13 and 2013/14 relating to all seven contribution types mentioned in B1. The process can be summarised as follows.



- B7. A project can only be taken forward where:
- a. sufficient developer contributions funding is available in the appropriate devolved/strategic fund & relevant contribution type(s);
 - b. there is sufficient officer capacity to oversee project delivery or processing of S106 grants, as appropriate;
 - c. it is formally prioritised, subject to project appraisal, by the relevant area committee (for local priorities) or by the relevant Executive Councillor (for strategic priorities);
 - d. it subsequently receives project appraisal approval - all projects above £15k have to be appraised by the appropriate councillors.

Project value	Area priorities	Strategic priorities
Below £75k	Area committee chair, vice chair and opposition spokes	Executive councillor in consultation with scrutiny committee chair, vice chair & opposition spokes
Above £75k	Area Committee	Scrutiny Committee

- B8. In seeking project ideas for new/improved facilities in Cambridge, consultees are reminded that:
- a. developer contributions cannot be used for funding running costs or repairs or maintenance or projects outside the city of Cambridge;
 - b. proposed new/improved facilities need to be publicly accessible (grant recipients have to sign a community use agreement);
 - c. the more information that consultees can provide about their proposals the better (eg, what is proposed and where, how much it could cost, how it would benefit residents (including residents from disadvantaged wards), what preparations are already in place, how long the project could take and when it could be completed);
 - d. the amount of developer contributions available is limited and it will not be possible to fund all the ideas received- tough priority-setting decisions will need to be made;
 - e. groups seeking funding for new/improved facilities are encouraged to explore other funding sources and carry out fund-raising. As part of this, groups will need to make sure they can afford the running and maintenance of any new/improved facility that they are looking to develop.

See also paragraph A5 of Appendix A.

S106 priority projects completed in the last two years

CP ref.	COMPLETED PROJECTS	AREA	£k S106
Projects agreed prior to 1st round S106 priority-setting			
PR25	Grant for Rock Road library community meeting space	S	<25
-	Bat and vole biodiversity project at Accordia	S	<15
PR26	Grant for Flamsteed Road Scout Hut	E	100
PR26	Grant for King's Church Community Centre	E	100
PR26	Grant for St Martin's Church Centre: phase 1	E	100-125
PR26	Grant for St Martin's Church Centre: phase 1b	E	100-125
SC432	Mill Road Cemetery memorial public art	E	50-75
SC436	Pye's Pitch facilities (pitch provision and improved access/landscaping)	N	25-50
SC468	Vie play area (revised)	N	25-50
SC474	Cherry Hinton Hall grounds improvements: phase 1	S	75
SC476	Abbey Pool paddling pool splash pad	E	125
SC477	Coleridge Rec Pool paddling pool splash pad	E	100
SC478	King's Hedges paddling pool splash pad	N	125
SC492	Jesus Green play area	W/C	100-125
SC494	Kings Hedges (The Pulley) play area	N	75-100
SC496	Petersfield & Flower Street play area (also funded from other sources)	E	<25
SC497	Peveler Road play area	E	75-100
SC512	Hobbs Pavilion	W/C	225-250
SC556	Grant for Arbury Community Centre	N	75-100
1st round S106 priority-setting: strategic projects			
PR34b	Paradise local nature reserve (including footpath sign-posting)	W/C	100-125
PR34g	Grant for Centre at St Paul's: phase 3	S	50

CP ref.	COMPLETED PROJECTS	AREA	£k S106
PR34i	Grant for Cherry Trees centre (incl. £36k funding from East Area)	E	75-100
1st round S106 priority-setting: local projects			
PR30a	Stourbridge Common biodiversity improvements	E	<25
PR30c	Ditton Fields outdoor fitness equipment	E	25-50
PR31c	Nun's Way skate park	N	50-75
PR32a	Hanover Court/Princess Court community meeting space	S	100
PR32b	Nightingale Avenue Rec trim trail	S	25-50
PR32c	Cherry Hinton Rec Ground improvements (play dome, panna goals, skate park)	S	100-125
PR32d	Grant for Cherry Hinton community hub	S	<25
PR33a	Benches in parks and open spaces	W/C	25-50
PR33b	Access improvements to Midsummer Common orchard	W/C	<25
PR33d	Grant for community meeting space at Centre 33	W/C	<25
2nd round S106 priority-setting: strategic projects			
SC584	Parker's Piece lighting project	W/C	25-50
2nd round S106 priority-setting: local projects			
PR31j	Grant to Mitcham's Models public art project	N	<5
PR33e	Grant for community meeting space at Great St Mary's Church	W/C	50

Areas: N = North; E = East; S = South and W/C = West/Central

More information about projects funded by S106 contributions, which were completed between 2007 and 2012, can be found on the council's Developer Contributions web page: www.cambridge.gov.uk/S106.

On-going S106 priority projects

S106 projects from the 1st and 2nd rounds were prioritised subject to consultation/project appraisal, as appropriate. Assuming those still being appraised are approved, delivery is expected within the next 6-12 months, unless otherwise stated. More details will be reported to the area committee.

CP ref.	ON-GOING PROJECTS	AREA	£k S106
Projects agreed prior to S106 priority-setting 1st round			
PR26	Stanesfield Road Scout Hut (expected to complete in December '14)	E	100
SC469	Vie open space (residual landscaping works)	N	125-150
SC479	Abbey Pool play area (expected to complete in November '14)	E	75-100
SC544	Coleridge Recreation Ground improvements (play area installation from October '2014)	E	275-300
SC548	Southern Connections public art project	S	75-100
1st priority-setting round: strategic projects			
PR34a	Logan's Meadow local nature reserve (largely complete)	N	125-150
PR34c	Jesus Green drainage (commencing October 2014)	W/C	100-125
PR34c	Cambridge Rules public art project	W/C	100-125
PR34g	Grant for St Andrew's Hall extension (expected January 2015)	N	125-150
1st priority-setting round: local projects			
PR30b	Improve access to Abbey Pool play area from Coldham's Common (expected Nov '14)	E	<25
PR30d	St Thomas Square play area	E	50
PR31b	BMX track by Brown's Field community centre	N	25-50
PR31d	Chestnut Grove play area improvements	N	50
PR33c	Histon Road Rec entrances / public art	W/C	50-75
2nd priority-setting round: strategic projects			
PR34k	Grant for Netherhall School cricket nets	S	25

CP ref.	ON-GOING PROJECTS	AREA	£k S106
PR34l	Grant for Parkside Pool starting blocks (installation due in late September 2014)	W/C	<25
2nd priority-setting round: local projects			
PR30e	Cavendish Road (Mill Road end) improvements (seating, paving public art)	E	25-50
PR30f	Bath House play area improvements (public consultation being arranged)	E	50
PR30g	East Barnwell Community Centre improvements (delivery not due until 2015/16)	E	250-275
PR30h	Romsey 'Town Square' improvements (construction programme for autumn 2015)	E	50-75
PR30i	Ross Street community centre improvements (expected in December '14)	E	50-75
PR31e	Alexandra Gardens trim trail	N	25-50
PR31f	Buchan Street Neighbourhood Centre improvements (expected in December '14)	N	100
PR31g	Grant for Milton Road library community rooms (awaiting feasibility study from county council: delivery projected to be end 2015/16)	N	100
PR31h	Lighting for Nun's Way multi-use games area	N	<25
PR31i	Perse Way flats play area	N	25-50
PR32e	Accordia scooter/trim trail (more consultation this autumn; committee report will follow)	S	25-50
PR32f	Cherry Hinton Baptist Church family centre	S	50-75
PR32g	Cherry Hinton Rec pavilion refurbishment	S	100
PR32h	Trumpington Bowls Club pavilion	S	50-75
PR32i	War memorial improvements (landscaping) (expected in November 14)	S	<25
PR33f	Histon Road Rec improvements (play equipment, seating, nesting boxes)	W/C	50-75
PR33g	Lammas Land solar studs (expected shortly)	W/C	<10
PR33h	St Augustine's Church Hall extension	W/C	100
PR33i	St Mark's Church Hall extension	W/C	150

Projects currently on the 'on hold' list

E1.1 The following projects have previously been added to the council's Capital Plan but are currently on the 'on hold' list as there is not yet sufficient funding available for the projects to be taken forward.

E1.2 All projects on the Capital Plan and the 'on hold' list will be considered as part of the on-going review of the Capital Plan, which will examine which projects should remain on these lists.

CP ref.	ON-HOLD PROJECTS	AREA	£k S106
474	Cherry Hinton Hall grounds improvements phase 2	S	400
475	Nightingale Avenue Pavilion	S	200
PR34j	Rouse Ball Pavilion (Jesus Green)	W/C	250

E2. **Cherry Hinton Hall Grounds improvements: phase 2:** This project is 'on hold' list because lottery funding opportunities were being explored in order to fund a full masterplan of improvements. Although this did not come to fruition, there is still £400k of S106 informal open space contributions allocated to the project. Proposals for a series of smaller-scale grounds improvements at Cherry Hinton Hall are being developed, so that project appraisals for works using these existing allocations can be brought forward in due course.

E3.1 **Nightingale Avenue Pavilion:** The project was added to the Capital Plan on the understanding that community facilities contributions from the Bell School site (once received in phased payments) could go towards the overall costs of the project, which could be in the region of £300k-£400k. Contributions are still awaited: the first instalment has been requested recently and subsequent phased payments are likely to come in over a number of years.

E3.2 In the meantime, the South Area Committee in January 2014 earmarked £200,000 of outdoor sports contributions for this project (currently allocated from devolved funding). Depending on the facilities to be included in a new pavilion and considerations about how it would be managed, there are still questions about which contribution types the S106 funding for this project would come from.

E3.3 It is possible that the project might need further allocations of S106 outdoor sports funding, if the currently anticipated levels of community facilities contributions are no longer appropriate for this particular project. Such project allocations would need to be determined as part of a future S106 priority-setting round.

E4. Rouse Ball Pavilion:

- E4.1 This project was identified as a long-term strategic priority project in the first S106 priority-setting round in January 2013. With additional S106 funding added in October 2013, £250k of S106 contributions are currently allocated to the Rouse Ball Pavilion project (half community facilities contributions and half outdoor sports contributions). It is on the 'on hold' list, however, because the overall project is expected to cost £700k-£800k and options are being explored for securing the necessary external funding for the project to go forward.
- E4.2 Officers have been mindful that some of the S106 contributions that are currently allocated to this project feature expiry dates for the funding to be contractually committed by late 2016 and spring 2017. To ensure that they can be used on time, officers expect to be able to reallocate these specific contributions to appropriate strategic projects that are likely to be prioritised following the 3rd round S106 priority-setting report to this Committee in January 2016. However, the consideration of these specific allocation issues has highlighted further questions about the funding of this project from S106 contributions.
- E4.3 At the same time as the Rouse Ball pavilion on Jesus Green was prioritised in January 2013, a drainage improvement project for Jesus Green was also prioritised as a strategic project (and works are due to commence in October 2014). Initially, around three-quarters of the costs of the drainage project were allocated from outdoor sports money but this was subsequently changed to 100% funding from informal open space contributions in the light of concerns that the character of Jesus Green could be changed if there was more emphasis on outdoor sports provision.
- E4.4 In this context, questions have been raised about whether the Rouse Ball pavilion project would still be eligible for S106 outdoor sports funding for changing rooms if the drainage project is not now creating further formal sports opportunities on Jesus Green. In addition, doubts have been expressed as to whether S106 community facilities contributions could be used for facilities which might be for a café run on a commercial footing.
- E4.5 Officers are currently minded to recommend to the Executive Councillor for Community, Arts and Recreation in January 2015 that the Rouse Ball Pavilion project should no longer be allocated S106 community facilities and outdoor sports contributions. This would mean that the project would remain on the Capital Plan 'on hold' list without funding, in case there is a possibility that other sources of funding could be identified.

Equality Impact Assessment

1. Title of programme:

S106 contributions: priority-setting and devolved decision-making

2. What is the objective or purpose of the programme?

Purpose: The updates to the programme aim to fine-tune the Council's approach to devolved decision-making to area committees over the use of S106 contributions. It also sets out the process and timetable for the next two (third and fourth) S106 priority-setting rounds in 2014 and 2015.

Background: The council asks developers to contribute towards the costs of new/improved facilities in order to offset the impact of development. This currently happens through S106 agreements as part of planning applications, in line with the council's Planning Obligations Strategy 2010.

The use of S106 contributions has to comply with official regulations (eg, CIL Regulations 2010 or ODPM Circular 05/05). The CIL 'three tests' ask whether a S106 contribution is: necessary to make the development acceptable in planning terms; directly related to the development; and fairly & reasonably related in scale/kind to the development. S106 contributions have to be used on capital projects that provide additional benefit and cannot be used for running costs and repairs/maintenance costs.

In 2012, the council devolved to area committees decision-making over the use of some types of developer contributions (community facilities, informal open space, indoor sports, outdoor sports [including formal open space], public art and public realm). The amounts of devolved S106 funding available has been based on whether planning applications were determined by an area committee or the Planning Committee. Following consultations in autumn 2012 (to develop area needs assessments), refreshed in summer 2013, two priority-setting rounds have taken place.

Changes to S106 devolved decision-making are now proposed (as reported to the Community Services Scrutiny Committee in October 2014):

- a. so that decisions on S106 developer contributions for indoor sports, public art and public realm are no longer devolved to area committees;
- b. now that area committees no longer determine planning applications;
- c. to focus the next (3rd) priority-setting round in 2014/15 on proposals that could be eligible for S106 grant funding. A 4th round (including proposals involving project management by the council) is planned for 2015/16. Both rounds will incorporate consultation and analysis of area needs.

3. Who will be affected by this programme?

Residents Visitors Staff

A specific client group or groups: Local sports and community groups

4. What type of project is this?

New Revised Existing

The previous EqIA on S106 devolved decision-making (January 2013) focussed on the initial consultation exercise and first round of S106 priority-setting. This update considers the equality implications of the proposed changes to S106 devolved decision-making (as set out in section 2 above). The equality impacts of particular schemes that come forward through S106 priority-setting are not covered here as they are addressed through specific project appraisals.

5. Responsible directorate and service

Directorate: Environment

Service: Urban Growth

6. Are other departments/partners involved in delivering this programme?

No Yes

S106 priority-setting leads to the identification of projects which are either:

- a. scoped and project managed by council services (eg, Streets & Open Spaces, Community, Arts & Recreation)
- b. grant-funded so that the projects can be project-managed by the grant recipients (eg, community groups or local organisations). S106 grants largely relate to community or sports facilities. These are processed by the council's Community Arts & Recreation service.

7. Potential impact: How could this programme positively or negatively affect individuals from the following equalities groups?

In general, the scope for positive or negative effects is limited given the purpose of S106 contributions (to address the impact of development [as opposed to need]) and the council's Planning Obligations Strategy. Apart from the 'play provision for children & teenagers' contribution type, the focus is on providing benefit to the broad community, not providing facilities to benefit particular groups. Grant recipients are required to sign community use agreements that the facilities being funded will be open and accessible to all sections of the community.

7. Potential impact (continued)

The greatest scope to affect individuals from particular equalities groups positively or negatively relates the proposed focus on S106 grant-funding in the 3rd priority-setting round (see section 7j below, in particular) and the consultation arrangements for seeking ideas for new/improved facilities.

The proposed change, so that S106 priority-setting decisions over indoor sports, public art and public realm contributions are no longer devolved, will produce no differential impact (as there will still be consultation and S106 priority-setting). The same applies to the proposal to change the basis on which S106 contributions are devolved to area funds.

(a) Age

- The provision of new/improved play areas via through S106 funding makes a positive difference to children and teenagers.
- Whilst a small number of young people have had their say, children and teenagers have been under-represented in S106 consultations. Even so, improvements to play area have been made across the city.

(b) Disability

- Disability groups have been invited to have their say as part of previous S106 consultations, and feedback has been received. Even so, more could be done to engage with those groups, not least groups representing people with mental health difficulties.
- Measures to improve physical access to facilities have been incorporated into priority projects delivered with S106 funding.

(c) Gender

- Women's groups have been invited to have their say as part of previous S106 consultations. Even so, more could be done to engage with them.

(d) Pregnancy and maternity

- The timing of some previous S106 consultation meetings (weekday evenings and Saturday mornings) has made it difficult for parents with young children to attend.
- Measures to improve access to facilities for people with pushchairs have been incorporated into priority projects delivered with S106 funding.

(e) Transgender

- Whilst transgender groups have been invited to have their say as part of previous S106 consultations, more could be done to engage with them.

(f) Marriage and Civil Partnership

- There is no evidence that the S106 devolved decision-making programme will have differential impacts.

(g) Race or Ethnicity

- Black and minority ethnic (BME) groups have been invited to have their say as part of previous S106 consultations, and some feedback has been received. Even so, more could be done to engage with them

(h) Religion or Belief

- Faith groups have been invited to have their say as part of previous S106 consultations, and some consultation feedback has been received (including from Christian churches and the Sikh community). Even so, more could be done to engage with those and other faith groups.
- The council does not provide S106 funding for faith issues, but can and does provide S106 funding for community facilities that are open to all, which are run by faith groups.

(i) Sexual Orientation

- Whilst previous S106 consultations have sought to engage LGTB groups, more could be done to engage with them.

(j) Other factors that may lead to inequality – in particular –the impact of any changes on low income groups or those experiencing poverty

Focussing the 3rd priority-setting round on S106 grant-funding makes sense to enable the council to progress S106 priority projects (largely from the 2nd round) that still need to be completed before taking on further S106 projects to project manage/deliver. That said, there are two considerations.

- As community groups receiving S106 grants for capital projects have to meet the project running and maintenance costs themselves, not all groups will have sufficient funds to do this. This could disproportionately affect the more deprived parts of the city in the North and East areas.
- By taking forward priority-setting for S106 grant-funding in the 3rd round, this could be less funding for community and sports facilities in the 4th round, not least for those that would involve delivery by the council.

8. If you have any additional comments please add them here

As identified in the previous EqIA for S106 devolved decision-making (Jan '13), the North Area tends to have significantly lower levels of S106 devolved funding available compared to other areas (particularly South).

Additional comments (continued)

This reflects the differing levels of development across the city. At the same time, parts of the North and East areas have comparatively high levels of deprivation (Cambridgeshire Indices of Multiple Deprivation, 2010).

The low levels of devolved funding for some contribution types has been partly addressed in previous S106 priority-setting rounds: some contributions from major developments in North and East areas, originally assigned to strategic funds (as part of the 50:50 split of contributions), have been released to the respective area's devolved funds, to enable the area committees to help fund local priority projects. This option will be available to executive councillors in future as far as appropriate S106 monies are available in strategic funds.

The report to Community Services Scrutiny Committee in October 2014 also suggests that funding from other parts of Cambridge could be justified for projects in North or East areas if major facilities benefitting the whole city were located in those areas.

9. Conclusions and Next Steps

It is possible to address some of the (potential) inequalities that have been identified in section 7 – and this is covered in the action plan, below.

- S106 consultations will be publicised in a variety of ways (not assuming access to computers) and there will also be different ways to provide feedback.
- The run-up to the 4th round consultation in late Spring/early summer 2015 gives the opportunity to engage with equality groups more fully in advance in order to help make sure that their comments can be taken into account.

For other inequalities (particularly, differences between the four areas of the city), there is less room for manoeuvre given official requirements over the use of S106 funding.

That said, there is still S106 funding available to help provide and improve local facilities and address the impact of development. Local communities and their area committees still have important roles to play in helping to identify how the available funding should be used locally.

10. Sign off

Tim Wetherfield, Urban Growth Project Manager

Date of completion: 29 September 2014

Date of next review of the assessment: March 2016

EqlA Action Plan:

S106 contributions: priority-setting & devolved decisions

Lead officer: Tim Wetherfield, Urban Growth Project Manager.

Other factors that may lead to inequality	
Possible negative impact	The 3 rd priority setting round (S106 grant-funding) may reduce funds available for project proposals to provide/improve council facilities in the 4 th round.
Action to be taken	Highlight the possibility in reports to committees in the 3 rd round (Jan/Feb 2015), alongside a breakdown of S106 funding availability by type. Give examples of community/sport facility project ideas previously suggested that may be included in 4 th round.
Complete by	February 2015

Equality Groups	Various
Possible negative impact	BME groups, LGTB groups, women's groups and faith groups have been also under-represented in consultation on possible uses of S106 contributions
Action to be taken	Work with the Community Development Officer (Inclusion & Engagement) to engage them more in S106 consultations (particularly for the 4 th S106 priority-setting round). This will also take stock of the findings of needs assessments surveys with these equality groups.
Complete by	July 2015

Equality Group	Age
Possible negative impact	Children and teenagers have been under-represented in consultations on possible uses of S106 contributions
Action to be taken	Work with Children and Young People's services to engage more young people in S106 consultations (particularly the 4 th S106 priority-setting round)
Complete by	July 2015

Equality Group	Disability
Possible negative impact	Disability groups (esp. those representing people with mental health issues) have been under-represented in consultations on possible uses of S106 contributions
Action to be taken	Work with the Access Officer to engage disability groups more in S106 consultations (particularly the 4 th S106 priority-setting round)
Complete by	July 2015

Equality Group	Pregnancy and Maternity
Possible negative impact	Parents of young children have felt less able to take part in consultations due to child care responsibilities
Action to be taken	Publicise the range of S106 consultation opportunities and ways to comments via support groups for parents
Complete by	July 2015

Other factors that may lead to inequality	
Possible negative impact	Community groups struggle to find identify other sources of funding to support the running/maintenance costs likely to arise from their capital project proposals
Action to be taken	Continue to work with Community, Arts & Recreation to signpost other sources of external funding as well as to encourage community groups to undertake other fund-raising for their proposed new/improved facilities.
Complete by	December 2015