



To: Executive Councillor for Streets and Open Spaces:
Councillor Anna Smith

Report by: Urban Growth Project Manager

Relevant scrutiny committee: Community Services Scrutiny Committee 6/10/2016

Wards affected: All wards

S106 PRIORITY-SETTING PROCESS (STREETS & OPEN SPACES)

Key Decision

1. EXECUTIVE SUMMARY

- 1.1 This is the first of two reports on this agenda on arrangements for prioritising the use of generic S106 contributions in 2016/17. It focuses mainly¹ on S106 contribution types in this portfolio: informal open space, provision for children & teenagers, public art and public realm.
- 1.2 The council seeks S106 contributions to mitigate the impact of development (extra demands on facilities). Whilst there are still around £1.6 million of generic S106 contributions in this portfolio available, Section 3 of this report explains how changes over the last couple of years have major implications for S106 priority-setting:
- a. generic S106 funding is tapering off and running down;
 - b. the availability of S106 funding is not spread evenly;
 - c. project proposals need to reflect the reduced funding availability;
 - d. and decisions over the use of generic S106 funds need to be mindful of the council's approach to specific contributions.
- 1.3 These constraints necessitate some changes to the arrangements for the next S106 priority-setting round (set out in Section 4) in order to:
- a. strengthen the S106 selection criteria, giving greater weight to deliverable project proposals which meet identified needs;
 - b. maximise the spending power of the generic S106 funds available;
 - c. encourage proposals for those types of projects and from those parts of the city where S106 funding is most available.

1. Some of the S106 funding analysis, as well as the S106 selection criteria, relate to a wider range of S106 contribution types too.

- 1.4 Different S106 contribution types have different purposes. They can vary significantly in both the level of funding available and the nature and cost of the mitigation projects that they support. Section 5 highlights particular issues relating to the public realm S106 category and explains why it is proposed not to include this contribution type in the next S106 priority-setting round.

2. RECOMMENDATIONS

2016/17 S106 priority-setting round

- 2.1 That the Executive Councillor for Streets and Open Spaces approves the proposed approach to the 2016/17 S106 priority setting round (set out in Section 4 of the report) which:
- a. updates the S106 selection criteria for priority-setting (Appendix B);
 - b. revises the S106 devolved decision-making arrangements to enable area committees to decide how **all** unallocated S106 funding from the 'informal open spaces' and 'provision for children and teenagers' contribution types from their areas should be used;
 - c. focuses the bidding process on seeking eligible proposals for improving open spaces and play areas and running small-scale public art projects from those parts of the city where relevant S106 funding is available; and
 - d. envisages that the S106 bidding process will take place from late October to early December 2016, followed by priority-setting reports to relevant committees in March - April 2017.

Public realm improvements

- 2.2 That the Executive Councillor for Streets and Open Spaces approves the proposed approach to public realm improvements (see Section 5):
- a. instructing officers to develop (and report back to the Community Services Scrutiny Committee) proposals for public realm improvements, in line with the Eastern Gate Development Framework Supplementary Planning Document, which would mitigate the impact of a major development on Harvest Way);
 - b. de-allocating the public realm funding allocation of up to £42,000 for the existing Mill Road Gateway sign project;
 - c. offering community groups on Mill Road the opportunity (before any other suggestions are invited) to put forward alternative proposals for a Mill Road Gateway project, which could be considered by the Community Services Scrutiny Committee by June 2017;
 - d. not seeking any new project proposals for the use of available funding for public realm improvements until after June 2017.

3. CHANGING CONTEXT

- 3.1 An overview of S106 funding can be found in Appendix A. The key point is that S106 contributions have to be (and are) used for their intended purposes, on projects/facilities related to the developments from which those contributions arise².
- 3.2 The four S106 priority-setting rounds since 2012/13 have been preceded by reports setting out the arrangements (including the need for adjustments and opportunities for improvements). This latest report has the same purpose. This section explains that the context in which S106 priority-setting³ operates is changing dramatically.

Generic S106 funding is tapering off and running down

- 3.3 In the past, Cambridge has been in the fortunate position that, almost as quickly as generic S106 funds⁴ have been allocated/spent, funding availability levels have been topped up through receipts of new generic S106 contributions. Over £3.4 million of unallocated S106 funding is available for the S106 priority-setting process^{5,6}.
- 3.4 S106 reports to this Committee (and others) over the last two years have warned that this situation would change. Diagram 1⁷ bears this out by showing the amount of new S106 income. In March to August 2016, the amount of generic contributions received were eight times less than in September 2014 to February 2015.
- 3.5 As new S106 projects are prioritised through this next round, the availability of generic S106 funding could run down significantly. The number and value of outstanding generic S106 contributions (agreed before April 2015 but still awaiting payment) is limited. It is hoped that

2. See paragraphs A2, A5 and A10 of Appendix A.

3. For a summary of the key components of S106 priority-setting process, see paragraphs A7 to A8 of Appendix A.

4. See paragraphs A3, A4 and A5 of Appendix A.

5. The S106 funding availability figures featured in this report are based on an analysis in August 2016. This will be updated prior to the launch of the bidding process for new S106 proposals in late October. Whilst some new generic S106 contributions may have been received by then, it is possible that the breakdown of funding availability by area/ward may go down in some cases following further checks to make sure all appropriate project spend has been taken into account.

6. This estimate of overall S106 funding availability breaks down to around £1.7 million available across the informal open space, provision for children and teenagers, public art and public realm contribution types. There is around a further £1.75 million available across those contribution types in the Communities portfolio.

7. Diagram 1 makes a distinction between public art S106 contributions (paid after building completion) and other generic contributions (paid at the start of building).

some large sums might be triggered from a few major developments over the next few years. This might provide a welcome upward 'blip' in the downward trend in generic S106 income and a boost to S106 funding availability in certain wards in South and East areas. However, for most wards, this is unlikely to make much difference.

Diagram 1 (see paragraph 3.4 on previous page)

New generic S106 funds (£k) received since September 2014

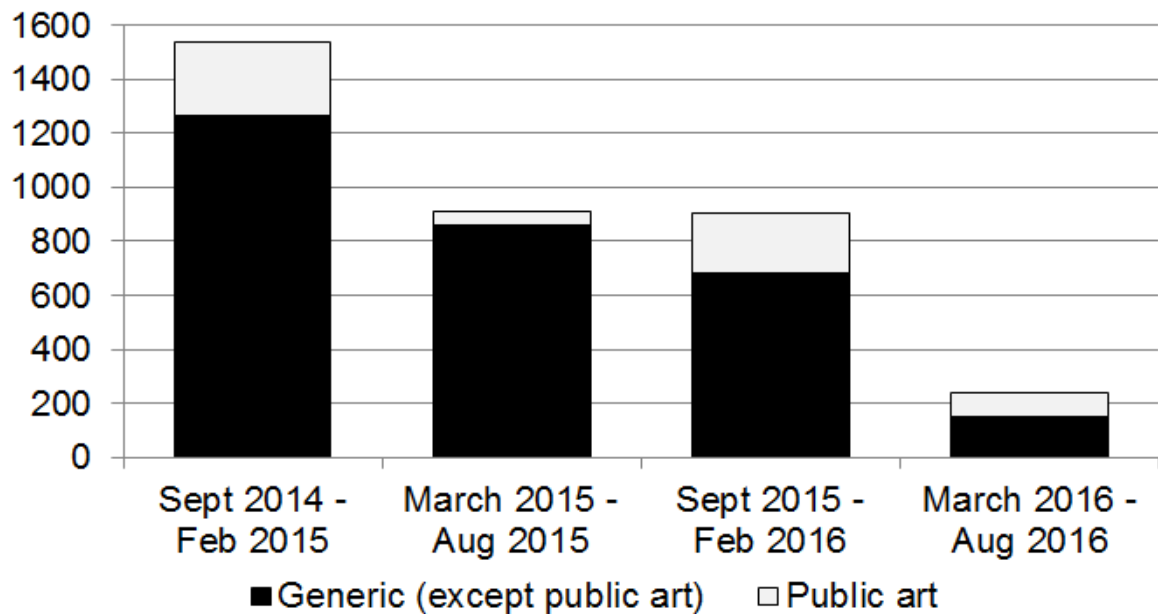
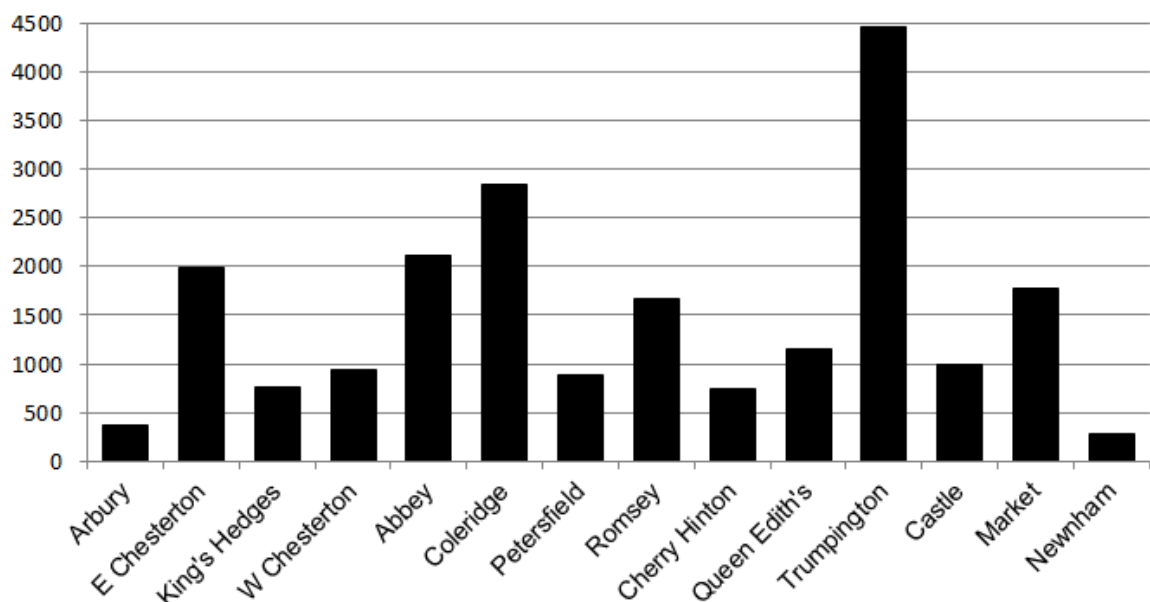


Diagram 2 (see paragraph 3.6 on the next page)

Overall S106 income (£k) by ward⁸



8. Based on current S106 records of S106 contributions received in the last 15 years or so from non-growth sites, relating to the contribution types covered by S106 priority-setting (including community facilities, outdoor sports and indoor sports).

The availability of generic S106 funding is not spread evenly

- 3.6 Variations in generic S106 funding availability have been highlighted in each priority-setting round. This reflects the combined effect of:
- differences between wards in the amount/scale of development [and overall sum of S106 contributions secured] (see Diagram 2);
 - and the projects funded by S106 contributions from developments in the area. Every ward of the city is benefitting from prioritised S106-funded projects since 2010⁹.

Table 1: Current calculation of S106 funding availability by area¹⁰

| <i>Rounded down to the nearest £10k</i> | | North | East | South | West/ Central |
|---|-----------|--------------|-------------|--------------|--------------------------|
| Informal open space | Devolved | £80k | £120k | £210k | £90k |
| | Strategic | £90k | £0k | £80k | £10k |
| Play areas ¹¹ | Devolved | £20k | £70k | £180k | £20k |
| | Strategic | £0k | £50k | £110k | £0k |
| Public art ¹² | City-wide | £30k | £280k | £180k | £30k |
| Public realm ¹³ | City-wide | £0k | £60k | £0k | £0k |

- 3.7 Of these available generic contributions, only two have expiry dates before the end of 2020 – all from Castle ward (West/Central Area).

Table 2: S106 contributions with expiry dates before 2020¹⁴

| Type | Ward | Unallocated | Expires |
|---------------------|-------------|--------------------|----------------|
| Informal open space | Castle | £26,900 | August 2019 |
| Informal open space | Castle | £57,800 | April 2020 |

9. Including those that are in the process of being implemented.

10. See paragraphs A6 and A10 of Appendix A

11. 'Play areas' is used as short-hand for 'provision for children & teenagers'.

12. The availability of S106 public art funds across the areas is likely to change once the scale and location of projects under the £400,000 River Cam public art programme (already provisionally allocated) are clarified. The current figures allow for a spread of small-scale public art projects across all four areas in 2016-18 (not yet allocated), and will be adjusted once the next round of small-scale grants have been prioritised.

13. In line with the council's Planning Obligations Strategy 2010, 'public realm' was not a generic contribution type that was sought as a matter of course, but was secured in appropriate cases. This helps to explain the lower levels of funding availability.

14. These time-limited contributions from Castle ward relate to two S106 agreements which stipulate five-year expiry dates. Most other S106 agreements with time limits set a 10-year period. There is still time to make sure that these contributions can be contractually committed to appropriate projects by their expiry dates.

- 3.8 Whilst S106 contributions have been devolved on an area basis, the need to look at funding availability at ward level becomes more important. S106 committee reports in 2015/16, before priority-setting, identified that some wards were already starting to run very low in their devolved funds for some contribution types. The issue has become even more pronounced, given the spread of S106 projects across the city that were prioritised in the last round. This report returns to proposals for addressing this in paragraph 4.6.
- 3.9 This does not mean that S106 contributions from a particular ward can only be used to fund projects in the same ward (as other wards may come within the catchment area for the improved facility too). However, the effects of the changes to S106 funding that the council has faced over the last couple of years do reduce options for funding projects towards the outer edges of Cambridge (such as in Abbey, Cherry Hinton, Castle and Newnham) when devolved funding levels in those wards become depleted¹⁵.

Project proposals need to reflect the reduced funding availability

- 3.10 In this context, it is important to manage expectations of local groups and residents wishing to put forward project proposals in the 2016/17 bidding process. The scale of project being proposed needs to reflect the amount of generic S106 funding available.
- a. With the exception of a few wards with particularly large generic S106 funds available, the advice to both applicants and decision-makers would be to focus on improving specific features of an open space or play area (e.g., path improvements or some additional play equipment) rather trying to create a whole new facility.
 - b. It is tempting for applicants to want to put in proposals for the full amount of funding available in a ward or area, without realising that there might be competing suggestions for the use of that money.

The use of generic S106 funds via S106 priority-setting needs to be mindful of the council's approach to specific contributions

- 3.11 Even though it is only generic S106 contributions that are suitable for priority-setting, it is important to put this process in the context of the council's S106 interim approach for seeking specific contributions.
- a. The development of up-to-date evidence bases since April 2015 has been useful to inform decisions on the effective use of limited generic contributions can be spent effectively, as well as helping to

15. S106 projects in the inner wards of Cambridge tend to have more options for finding nearby developments from which to draw S106 funding because they tend to have higher development densities and are surrounded by other city wards. The outer wards have fewer options to do so.

demonstrate the need for specific contributions. The Outdoor Play Investment Strategy was agreed in October 2015 and the S106 (taking stock) report to this Committee last March referred to an update of the informal open space audit.

- b. Based on this new data, the Executive Councillor for City Centre and Public Places, last March, agreed 'target lists' of play areas and open spaces as a starting point for seeking specific contributions for improvement projects. This does not preclude some of these 'target list' proposals being put forward for generic S106 funding in the next S106 priority-setting round.

3.12 Apart from the small number of S106 contributions with expiry dates before 2020 (in Table 2), it is not necessary for **all** the generic S106 funding that is available to be spent in the next round¹⁶. Area committees and executive councillors may wish to defer spending on some S106 projects proposals from the 2016/17 bidding process in order to keep generic S106 funds available for supplementing specific contributions being sought for particular mitigation projects¹⁷.

4. 2016/17 S106 PRIORITY-SETTING ARRANGEMENTS

4.1 In spite of the challenges presented by the changing context, the recommendations in Section 2 identify the changes needed to strengthen S106 priority-setting. The reasons behind these proposals are set out below.

4.2 Other existing features of the S106 priority-setting will continue as before. These include:

- a. public realm and public art contributions continuing to be held in city-wide funds, with decisions over the use of this funding being made by the Executive Councillor;
- b. the principle¹⁸ allowing the relevant Executive Councillor to intervene and remove from devolved funding arrangements any S106 contributions which are at risk of going past expiry dates, in order to make sure that they can be used on time¹⁹.

16. They may not, in fact, be able to if the generic S106 funding available is dispersed in small amounts across wards.

17. It is understood that generic S106 funding can be combined with specific contributions. See the first footnote under paragraph A3b of Appendix A.

18. This principle was set out in the January 2012 report on devolved decision-making.

19. Given the regular S106 priority-setting rounds and delivery of S106 projects, there are currently only two unallocated S106 contributions with expiry dates before 2020 (as mentioned in Table 2) – and these can be allocated to projects in the next round. Although it is unlikely that this principle would need to be invoked, it is important to have it in place, just in case.

Strengthening the S106 selection criteria to give greater weight to deliverable project proposals which meet identified needs

See recommendation 2.1a

- 4.3 S106 eligibility criteria were introduced for the 2015/16 priority-setting round²⁰ as a key part of the application pack for local residents and organisations looking to put forward project proposals. These criteria were used to assess all the proposals received and were referred to in the priority-setting reports to committees. This helped to reduce the level of ineligible proposals received, compared to previous rounds, and to inform decision-making. This becomes even more important as S106 funding becomes more limited.
- 4.4 The selection criteria have now been updated for 2016/17 and can be found in Appendix B. These maintain the focus on S106-eligible projects, which provide additional benefit and are accessible to the wider community. There is, however, added emphasis on:
- a. proposals that are affordable within the S106 funding available for the relevant contribution type and within that part of the city to which it relates (criterion no. 2);
 - b. applications that are able to show that proposals would be an effective use of resources in terms of meeting identifiable needs (criterion no. 3). There is particular reference here to the council's strategic documents and facility audits.
- 4.5 The guidance notes, set out in boxes under the selection criteria in Appendix B, also provide additional advice. Most of these are similar to the points highlighted last year, but a number of new issues are raised, picking up on learning from the last round. In particular, attention is drawn to notes (b), (c) and (d) under criterion 6 which prompt S106 grant applicants to be more specific than before about the progress of their planning applications and fund-raising and their expected timescales for project delivery²¹.

Maximising the spending power of generic S106 funds

See recommendation 2.1b

- 4.6 Paragraphs 3.6 - 3.8 highlighted that S106 funding is becoming too thinly spread across devolved and strategic funds for some wards, as illustrated in Table 3 in the 'currently devolved' columns.

20. A summary of the 2015/16 S106 eligibility criteria are mentioned in the footnote under paragraph A7b of Appendix A.

21. This is particularly relevant for grant-based S106 projects undertaken by local organisations/groups (e.g., improvements of outdoor and indoor sports facilities). This is also highlighted in the second S106 report on this agenda. The Executive Councillor for Communities is asked to approve the S106 selection criteria too.

Table 3: How devolving funds to area committees would help wards
See paragraph 4.7 on the next page.

| | Informal open space | | Play areas | |
|-----------------------------|---------------------------------|-----------------------------|-------------------------|---------------------|
| | Rounded down to nearest £10,000 | Currently devolved | Proposal to devolve all | Currently devolved |
| NORTH AREA | | | | |
| Arbury | <£10k | £10k ↑ | <£5k | <£10k ↑ |
| East Chesterton | £40k | £80k ↑ | £0k | £0k |
| King's Hedges | <£10k | £10k ↑ | £10k | £10k |
| West Chesterton | £20k | £60k ↑ | <£10k | <£10k |
| EAST AREA | | | | |
| Abbey | £40k | £40k | £0k | <£10k ↑ |
| Coleridge | £50k | £50k | £10k | £50k ↑ |
| Petersfield | £10k | £10k | £10k | £10k |
| Romsey | £10k | £10k | £10k | £40k ↑ |
| SOUTH AREA | | | | |
| Cherry Hinton | £20k | £20k | <£5k | <£10k ↑ |
| Queen Edith's ²² | £10k | £10k | £30k | £30k |
| Trumpington | £180k | £270k²³ ↑ | £140k | £140k ²⁴ |
| WEST/CENTRAL | | | | |
| Castle ²⁵ | £70k | £90k ↑ | <£10k | <£10k |
| Market | £10k | £10k | <£10k | <£10k |
| Newnham | <£10k | <£10k | <£10k | <£10k |

22. Early indications suggest that the largest payment of generic S106 contributions in the second half of 2016/17 is likely to be in Queen Edith's, adding another £30k or so each to contributions for informal open space and play areas.
23. Almost two thirds of the informal open space funds from Trumpington are from one major development. Some of it could help fund improvements at nearby open spaces in other South Area wards (e.g., Nightingale Avenue Rec, Cherry Hinton Hall).
24. This large generic S106 funding available for play area improvements in this ward is set in the context that Trumpington has no play areas on the 'target list' for seeking specific S106 contributions (as they did not meet the scoring criteria). This at least means that some play area improvements will still be possible in Trumpington.
25. Almost £85,000 of £90,000 unallocated informal open space funding in Castle ward is time-limited: one contribution expires in August 2019, the other in April 2020.

4.7 Although there is limited room for manoeuvre, one way to maximise spending power would be to combine the devolved and strategic funds under each of the informal open space and provision for children and teenagers contribution types and devolve all these funds for the relevant area committees to decide how to use them²⁶. The difference that this would make is shown in the ‘proposal to devolve all’ columns.

- a. The ↑ symbol highlights those wards that would benefit from combining funds, with significant increases for six wards on informal open space S106 funding availability and for three wards in relation to provision for children and teenagers contributions. At the same time, given low levels of strategic S106 funds currently available in some wards, combining these with devolved funds amounts does not increase their spending power much or at all²⁷.
- b. The fact is that this is the best that can be done. The rules governing the use of S106 contributions dictate that funding cannot be swapped between different S106 contribution types or moved from one part of the city to another in order to balance disparities.

Diagram 3: How the previous and proposed arrangements compare

| S106 types | <i>Previous approach</i> | | Proposals for next round | | |
|----------------------------|--------------------------|-----------------------------|--------------------------|--------------|------------------------|
| | <i>Which fund?</i> | <i>Priorities set by</i> | Which fund? | Invite bids? | Priorities set by |
| Informal open space | <i>Devolved</i> | <i>Area Committee</i> | All devolved | Yes | <i>Area Committee</i> |
| | <i>Strategic</i> | Executive Councillor | | | |
| Play areas | <i>Devolved</i> | <i>Area Committee</i> | All devolved | Yes | <i>Area Committee</i> |
| | <i>Strategic</i> | Executive Councillor | | | |
| Public art | <i>City-wide</i> | Exec Cllr | City-wide | Yes | Exec Cllr |
| Public realm | <i>City-wide</i> | Executive Councillor | City-wide | No | Exec Councillor |

26. Please note that a different approach is proposed for combining devolved and strategic funds for outdoor sports contributions – centralising them in a strategic fund. The reasons for this are explained in the second S106 report on this agenda.

27.but those wards are no worse off either. It is just that combining the devolved and strategic funds does not give them much/any additional funding.

- 4.8 At the same time as devolving to area committees all available contributions for informal open space and provision for teenagers, no change is proposed for public art and public realm contributions, which would remain in city-wide funds with decisions made by the Executive Councillor (as summarised in Diagram 3 above). This is a continuation of the approach that was agreed in October 2014.
- a. Decisions on small-scale public art grants need to be joined-up so that they are placed in the context of wider public art programmes²⁸ and projects - to ensure that there is sufficient funding for both.
 - b. Funding for public realm improvements is discussed in Section 5.
- 4.9 Table 4 provides an overview of S106 funding availability under the proposed new arrangements.

Table 4:

How S106 funding would be assigned under the proposed approach

| Devolved to area committees | North Area | East Area | South Area | West/Central |
|------------------------------------|------------|-----------|------------|--------------|
| Informal Open Space | £170k | £120k | £300k | £110k |
| Play areas | £20k | £160k | £180k | £20k |

| | | | | |
|------------------------|------------|-------|--------------|------|
| City-wide funds | Public art | £540k | Public realm | £60k |
|------------------------|------------|-------|--------------|------|

Encouraging proposals for those types of projects and from those parts of the city where S106 funding is most available

See recommendation 2.1c

- 4.10 Building on paragraph 3.10, Table 3 and the S106 selection criteria in Appendix B (especially criterion 2), the application guidance²⁹ for those looking to put forward S106 proposals will provide a summary of S106 funding availability by ward and particularly encourage from those wards which have more than £30,000³⁰ of generic S106 contributions for informal open space and/or provision for children and teenagers. As it currently stands, this would include:
- a. Informal open space: Abbey, Castle, Coleridge, East and West Chesterton and Trumpington.
 - b. Provision for children and teenagers: Coleridge, Romsey, Queen Edith's and Trumpington.

28. Such as the River Cam public art programme.

29. This will be made available via the council's Developer Contributions web page (www.cambridge.gov.uk/s106).

30. Based on all available generic contributions being devolved to the area committee.

This does not rule out proposals for facility improvements in neighbouring wards in the same area³¹, as long as it can be shown that the project's benefits would extend across ward boundaries.

- 4.11 Paragraph 2.1c recommends that bidding process focuses on seeking grants for small-scale public art projects as well as eligible proposals for improving open spaces and play areas.
- a. This follows the decision of the Executive Councillor for City Centre and Public Places in October 2015 to earmark £100,000 for small-scale public art grants in 2016-18.
 - b. These grants are normally for up to £15,000 each, depending on the nature of the proposals.
 - c. Applications for these small-scale public art grants will be invited from across the city.

Setting out the S106 priority-setting process clearly

See recommendation 2.1d

- 4.12 Table 5 sets out the proposed timetable for the next round. Learning from previous years, this factors in sufficient time for officers to assess all the proposals received against the S106 selection criteria (alongside the implementation/delivery of on-going S106 projects).

Table 5: 2016/17 S106 priority-setting process

| | Timescales | |
|---|---|---|
| Bidding process seeking project ideas for open spaces and play area and small-scale public art grant applications | From late October to early December 2016 | |
| Officer assessment of all proposals received against S106 eligibility criteria | From December '16 to February 2017 | |
| S106 priority-setting reports to area committees for proposals relating to open space and play area improvements. | North: WCAC ³² : East: South: | 02/03/2017 09/03/2017: 06/04/2017 24/04/2017 |
| S106 priority-setting reports to Community Services Scrutiny Committee re:small-scale public art grants ³³ | 16 March 2016 | |

31. For example, proposals to use the time-limited informal open space contributions from Castle on projects to improve parks and open space in Market or Newnham.

32. WCAC stands for West/Central Area Committee.

33. A separate S106 priority-setting report on outdoor and indoor sports proposals is planned for the same meeting of this Committee.

This process culminates in area committees and executive councillors (as relevant) setting their S106 priority projects, subject to business case approval and any other relevant conditions. Officers will then take forward the necessary project development work and liaise with successful grant applicants over grant agreements (as appropriate).

4.13 Other arrangements will be similar to those in previous rounds:

- a. There will be short (probably 2-page) application forms, with accompanying notes about how to fill them in and details of the S106 selection criteria.
- b. The priority-setting round will be publicised via news releases, social media and the council's website, plus emails to individuals and groups who have previously applied and/or have already expressed an interest in putting forward proposals in 2016/17.
- c. Contact will also be made with a range of equality and diversity groups to ask them to raise awareness of the opportunity to put forward eligible proposals.
- d. Local councillors will also be encouraged to raise awareness of the autumn 2016 bidding process.

5. PUBLIC REALM IMPROVEMENT PROJECTS

5.1 Public realm S106 funding differs significantly from other contribution types within this Portfolio and faces some particular issues.

- a. As explained in the footnote under Table 1, public realm contributions have been collected less frequently than others³⁴.
- b. Some of the older public realm contributions collected by the council featured constraints about how they could be spent³⁵.
- c. There is less than £70,000 of unallocated public realm S106 generic contributions in the entire city. This is from a major development in Harvest Way (Abbey ward)³⁶, received in March

34. Over the last 15 years or so, around £730,000 of public realm contributions have been collected, compared to £4.9 million of community facilities contributions (relates to non-growth sites only).

35. A recent review of S106 public realm funding has reassigned some older contributions to completed projects which comply with the intended S106 purposes (e.g., local centre improvements and public realm improvements in the city centre) and expiry dates. This has freed up an equivalent amount of capital reserves funding (previously used to fund the local and city centre projects), which has now been assigned a number of completed or on-going projects previously allocated S106 funding. This swap has helped to ensure both appropriate use of S106 funding and resources for projects identified through S106 priority-setting, which do not carry the same restrictions about where and by when it should be spent.

36. Planning application reference: 11/0219/FUL.

2015. It has to be contractually committed to a project within 10 years. Harvest Way comes within the study area covered by the Eastern Gate Development Framework Supplementary Planning Document (SPD), which was adopted by the City Council in 2011³⁷. This SPD addresses the widespread recognition of the need to improve the physical environment within the study area.

- d. A number of public realm projects are being taken forward having been prioritised for S106 funding in previous rounds. It has become apparent, however, that one proposal prioritised last year (for the Mill Road Gateway sign project³⁸ - see Appendix C) was not as developed as had been thought at the time.

The recommendations under paragraph 2.2 are aimed particularly at addressing the points mention above in paragraph 5.1(c) and (d).

Mitigating the impact of development on Harvest Way

- 5.2 Paragraph 2.2 [a] recommends that officers be asked to develop proposals for public realm improvements which would mitigate the impact of a development on Harvest Way (Abbey ward).
 - a. Public realm improvements relating to the Eastern Gateway Development Framework would seem to directly related to the Harvest Way development.
 - b. Whilst the long expiry date (not until March 2025) means that there is no immediate rush, it is important to link this S106 funding to a relevant project. Officers will be asked to develop concept proposals and to report back to this Committee in due course, so the Executive Councillor can consider whether to allocate the S106 funding to this project.
 - c. Early indications are that S106 funding from the Harvest Way development would certainly make an important contribution to project costs, but that further funding may also be needed.

Mill Road Gateway sign

- 5.3 The recommendations relating to this project come in three parts. Paragraph 2.2[b] recommends de-allocating the S106 funding allocation of up to £42,000. There are three main reasons.
 - a. Although there was some consultation about the proposals amongst communities along Mill Road, questions have since been

37. See the council's Eastern Gate SPD web page at <https://www.cambridge.gov.uk/eastern-gate-spd>

38. Following the S106 proposal (made on behalf of communities on Mill Road), the Mill Road Gateway project on Donkey Common (Petersfield) was allocated up to £42,000 of public realm contributions (subject to business case appraisal) following the 2015/16 S106 priority-setting report to this Committee in October 2015.

raised about whether this (i) reached out widely enough to engage residents/local groups who might have wanted to comment³⁹ or (ii) went into sufficient detail to gauge opinion and show whether any aspects of the proposals were particularly liked or disliked.

- b. Concerns have arisen amongst some councillors and residents about the allocation of up to £42,000⁴⁰ of public realm funds for this project. This is considerably more than the cost estimates for the project suggested at an earlier stage in its development.
- c. Whilst project designs and outline implementation arrangements have been prepared, it has emerged that further detailed work is needed. It is not just a case of providing funding⁴¹. Council officers could undertake this without diverting attention from implementing other more developed priority projects which are ready.

5.4 In recognition of the care and effort taken by all those involved in putting together last year's S106 proposal, recommendation 2.2 (c) offers community groups on Mill Road⁴² the opportunity (before any other suggestions are invited) to put forward alternative proposals for the 'gateway' project, which could be considered by this Committee by June 2017. This would enable them to address the concerns raised and produce fresh proposals that might be simpler and more cost effective. It need not be limited to seeking public realm S106 contributions if alternative proposals could show that they meet the eligibility criteria for public art S106 funding (see Appendix B).

5.5 The recommendation in paragraph 2.2 (d) – not to seek any new proposals for the use of available public realm funding until after June 2017 – goes beyond simply enabling community groups on Mill Road to put forward alternative 'gateway' project proposals first.

- a. There are already a number of on-going public realm improvement projects⁴³, prioritised subject to business case approval, and which need to be delivered before taking on new ones.
- b. It would be prudent to take stock of the availability of public realm funding once existing projects (including those on Mill Road) have been completed or fully costed via the business case process.

39. Some concerns have been raised that there was not enough consultation in Petersfield, given that the proposed location of the plinth is Donkey Common.

40.and even the £34,000 sum which last year's S106 proposal was seeking – see the second page of Appendix C.

41. Without this further work, it is also not clear whether actual project implementation costs would be in line with the cost estimates provided in the application.

42. For example, Mill Road Traders' Association and/or Mill Road Bridges Group.

43. These include public realm projects outside Mill Road Co-op ('Romsey Town Square'), on Cherry Hinton Road (towards Hills Road junction) and on Sidney Street.

6. IMPLICATIONS

- 6.1. **Financial Implications:** This report has already highlighted that generic S106 funds are running down and are not evenly spread. The recommendations aim to maximise the spending power of these available resources and ensure that developer contributions are used appropriately, effectively and on time.
- 6.2 Although it will not be possible to come to a definitive view until after the 2016/17 round, this might be the last full priority-setting round covering such a range of the generic contribution types and all areas of the city. In future, there might have to be narrower priority-setting exercises based on certain contribution types or areas of the city. Consideration may also need to be given to using residual generic contributions to supplement the funding of projects for which specific projects are being collected.
- 6.3 **Staffing implications:** The 2016/17 priority-setting process will be co-ordinated within existing staffing resources. Apart from small-scale public art (grant-based) projects, most S106 priority projects funded from the S106 contribution types within the Streets and Open Spaces portfolio tend to involve project management by the Development Team (Streets and Open Spaces) within Environmental Services.
- 6.4 **Consultation and communication:** One aim of a report on the priority-setting process is to ensure that the arrangements are open and transparent. Paragraph 4.13 sets out the steps to be taken to publicise the process. The council's Developer Contributions web page publicises the approach to S106 contributions, including plans for a 2016/17 priority-setting round. It also highlights the challenges faced by the significant reduction in generic S106 funding availability.
- 6.5 **Equal Opportunities and anti-poverty implications:** The proposed arrangements and selection criteria for S106 funding aim to provide a fair and consistent approach for priority-setting decisions. Officers have reviewed the equality impact assessment of the arrangements for earlier S106 priority-setting rounds. As a result, officers will, again, raise awareness of the bidding process and priority-setting amongst groups representing the range of equality strands, whilst managing expectations about the availability of S106 funds.
- 6.6 It is important to remember that the purpose of S106 funding is to mitigate the impact of development, rather than addressing pre-existing need of deprivation. That said, there is a recognition that development in parts of the city with the higher deprivation levels can have a greater impact on local communities and their facilities.

- 6.7 **Other implications:** Environmental, community safety and procurement implications are addressed as part of the business case appraisal for projects that are selected via the S106 priority-setting process (see paragraph A8 of Appendix A).

7. BACKGROUND PAPERS

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

- “S106 contributions: taking stock” report to Community Services Scrutiny Committee, 17/03/2016
- “2015/16 S106 priority-setting” report to Community Services Scrutiny Committee, 8/10/2015
- Outdoor Plan Investment Strategy 2016-21, Cambridge City Council, October 2015
- “S106 priority-setting and devolved decision-making” report to Community Services Scrutiny Committee, 16/10/2014
- “Devolved decision-making” report to Community Services Scrutiny Committee, January 2012
- Eastern Gate Development Framework Supplementary Planning Document, Cambridge City Council, October 2011
- Planning Obligations Strategy Supplementary Planning Document, Cambridge City Council, March 2010.

Further information (can be found at the council’s Developer Contributions web page (www.cambridge.gov.uk/s106)).

8. APPENDICES

- A. Overview of S106 priority-setting
- B. Proposed S106 selection criteria for 2016/17 priority-setting round
- C. Extracts from 2015/16 S106 application for the Mill Road Gateway sign project

9. INSPECTION OF PAPERS

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

Author’s Name: Tim Wetherfield
Author’s Phone Number: 01223 – 457313
Author’s Email: tim.wetherfield@cambridge.gov.uk

- A1. **What are S106 contributions for?** New homes & other development leads to more demands on local facilities. Through legal agreements, the council asks developers to pay off-site S106 contributions⁴⁴ to mitigate the impact of development when not addressed on-site.
- A2. All S106 contributions have to be used in line with their intended purpose, as set out in S106 agreements and council policy. The CIL Regulations also set three tests that councils must apply to ensure that S106 contributions are:
- 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.
- A3. The rules governing the use of S106 funding have changed over time.
- a. In November 2014, the government announced that councils could no longer seek S106 contributions from developments of 10 or fewer homes. Although rescinded by the High Court in summer 2015, this appeal was itself overturned at appeal last May.
 - b. New regulations, from 6 April 2015, require councils to confine their use of S106 contributions to specific ones for particular mitigation projects. No more than five specific contributions (since 2010) can be agreed for a project⁴⁵. This was a big change as, previously, the council had sought mostly generic contributions⁴⁶ to provide, improve (or improve access to) broad infrastructure types within the city. No new generic contributions have been agreed since then.
 - c. In June 15, the council introduced an interim⁴⁷ approach to seeking specific contributions⁴⁸, which was strengthened earlier this year.
 - d. The constraints on S106 funding aim to give councils an incentive to introduce a community infrastructure levy (CIL) system. The council submitted its draft CIL charging schedule and evidence in March 2014. It will adopt and implement CIL once examinations of the draft new Local Plan and CIL schedule are concluded. In the meantime, the focus on S106 funding continues.

44. This refers to Section 106 of the Town and Country Planning Act 1990.

45. Informal discussions with Douglas Edwards QC in spring 2015 indicated that specific and generic S106 contributions could be combined to help fund the same project.

46. Only a small number of specific contributions were agreed prior to April 2015, mainly relating to particular major developments and growth sites on the Cambridge fringes.

47. Prior to the introduction of the Community Infrastructure Levy (CIL) system.

48. As part of this approach, the council does not now seek new S106 contributions for off-site public art projects. The provision and maintenance of on-site public art for new developments can still be secured via planning conditions.

- A4. **Generic contributions:** The distinction between generic and specific S106 contributions (agreed before planning approval) is important.
- a. Generic contributions are suited to S106 priority-setting as there is still scope to decide how to use them on eligible projects.
 - b. The use of specific contributions is agreed prior to the planning decision being made, so they cannot be used for priority-setting.
- A5. Generic S106 contributions are based on distinct contribution types with separate purposes (set out in the Planning Obligations Strategy 2010). Here are examples of projects which could be funded⁴⁹. Projects cannot be switched from one contribution type to another.

| | |
|---------------------|---|
| Informal open space | Parks/open space improvements (eg, paths/surfaces, signs, lighting, landscaping, fences/gates, drainage, habitat creation/biodiversity, trees & shrubs, trim trails, BMX tracks, skate parks, benches/picnic tables, litter bins, noticeboards) |
| Play areas | New or improved play area or additional/better play equipment, plus safety surfacing under play equipment |
| Public art | Original, high quality public art, which involves an artist/craftsperson, engages the community in the process, is accessible to the public and has a legacy. |
| Public realm | Improvements to streetscape and areas outside shops, including paving, better access for people with disabilities, seating, hard-landscaping and tree-planting on streets. |

- A6. **How are decisions made on the use of S106 funding?** Since 2012, there have been four S106 priority-setting rounds, with decisions devolved to area committees on how some S106 funding received in the area for certain contribution types should be used on local projects benefitting the area. Executive councillors have retained strategic funds for the same contribution types in order to allocate S106 funds to strategic projects benefitting more than one area.
- a. For the last two years, area committees have made devolved decisions over four contribution types: informal open space and provision for children and teenagers; plus community facilities and outdoor sports facilities (both under the Communities portfolio).
 - b. The funding devolved to an area committee for each relevant contribution type been based on all unallocated S106 contributions from minor/other planning applications in the area and half the area's unallocated contributions from major planning applications.
 - c. Strategic funding has been based on unallocated S106 funding from the other half of contributions from major developments.

49. The council does not tend to use S106 funding to acquire land/property for new facilities but can fund the conversion of property once acquired.

- d. The Executive Councillor (City Centre & Public Places) in October 2014 agreed to assign all funds from three other (previously devolved) contribution types to city-wide funds: public art; public realm and also indoor sports (under the Communities portfolio).
- e. In October 2015, the Executive Councillor (City Centre & Public Places) also agreed to ring-fence £100,000 of public art S106 contributions for small-scale public art grants to local community groups and organisations in future rounds across 2016-2018.

A7. The S106 priority-setting process involves:

- a. inviting proposals or grant applications from local residents and community groups for projects eligible for S106 funding;
- b. officer assessments of those proposals against the council's eligibility criteria⁵⁰, and in terms of whether the project is feasible and ready to be considered;
- c. officer reports on the proposals received to the relevant area/scrutiny committee, with an assessment of their suitability against eligibility/selection criteria;
- d. the relevant area committee or executive councillor identifying project priorities.

A8. This process culminates in priority projects being allocated S106 funds subject to a satisfactory business case on design/implementation details and a grant/community use agreement (as appropriate)⁵¹. Business cases for executive councillor-prioritised projects over £300,000 are then reported back to this Committee for approval. Meanwhile, business cases for area committee priority projects over £75,000 are reported to the relevant area committee for approval⁵².

A9. The S106 priority-setting process since 2012/13, combined with the delivery of pre-existing projects, means that over £8 million of generic S106 funding has been spent or allocated over the last four years. Every ward in the city is benefitting from S106-funded projects in order to mitigate the impact of development in Cambridge.

50. The council's S106 eligibility criteria for 2015/16 highlighted the need for projects to be: based on clear proposals; within the city of Cambridge; about providing additional benefit; being accessible to all; and being affordable and financially viable. Ways to strengthen the eligibility criteria are explored in paragraphs 4.3 – 4.5.

51. Officers produce the business cases (detailing project details, consultation feedback and delivery arrangements) which are considered by the Capital Programme Board.

52. For local projects under £75,000, the relevant area committee chair, vice chair and opposition spokes are asked to comment on the business case before the relevant manager (under delegated authority) gives the go-ahead for project implementation.

A10. Which S106 contributions are used to fund which projects?:

Officers regularly review the S106 contributions allocated to projects to ensure that they are used in a timely way⁵³, for their intended purpose and on projects that are related to the developments from which they have arisen. Officers apply the 'rule of thumb'⁵⁴ that:

- a. Local projects (prioritised by the area committee) are normally funded firstly from relevant devolved contributions from the same ward and then from relevant devolved contributions from nearby developments in other wards in the same area of the city.
- b. Strategic/city-wide projects, prioritised by an executive councillor, are normally funded firstly from relevant strategic/city-wide contributions from the same area and then from those from major developments in neighbouring areas of the city.

A11. S106 funding availability: Tables 1, 3 and 4 in the main report provide an analysis of funding availability based on the existing approach to assigning funds (set out in paragraph A6) and the proposed approach (set out in recommendation 2.1b).

- a. This analysis of generic S106 funding availability assumes that all existing S106 projects already prioritised and allocated developer contributions will come to fruition and will use their S106 allocations.
- b. That said, it cannot be assumed that all prioritised projects, provisionally allocated S106 funding, will be confirmed. This depends on a satisfactory business case, which can take account of such factors as: feedback received from local consultation on the proposals; planning approval being obtained and community use agreements being signed.

If any projects were to be de-allocated funding, that funding would become available for other projects.

A12. More information: Further details about the council's approach can be found via the council's Developer Contributions web page (www.cambridge.gov.uk/s106).

53. The use of long-standing S106 receipts and those with expiry dates is prioritised ahead of more recently received contributions and those without expiry dates.

54. The S106 (Communities) report to this Committee last March outlined how officers sometimes swap contributions between devolved and strategic funds (without affecting the overall amounts meant to be in those funds) in order to strengthen the relationship between where S106 funds come from and where they are spent.

Proposed S106 selection criteria for 2016/17

The selection criteria will apply to all generic S106 contribution types considered as part of the 2016/17 priority-setting round. They relate both to proposals for projects to be delivered/overseen by the city council as well as to applications for S106 grants to local organisations/community groups⁵⁵.

To be suitable for S106 funding from the Cambridge City Council, project proposals need to...

1. be **ELIGIBLE** for **S106** funding

- a. S106 contributions agreed before April 2015 are based on different contribution types (with separate purposes) and include informal open space' and 'provision for children & teenagers'. Here are some examples of the sorts of projects that they can fund:
- 'Informal open space' for the city's parks & open spaces, such as paths/surfacing, signs, lighting, landscaping, drainage, fences/gates, drainage, habitat creation, trees & shrubs, trim trails, BMX tracks, skate parks, benches/picnic tables, litter bins, noticeboards);
 - 'Provision for children and teenagers': play equipment and safety surfacing under that play equipment.
- b. Proposals for these contribution types need to be about providing, improving or better access to a facility within the city of Cambridge.

Public art

- c. The eligibility criteria for S106 funding for public art in Cambridge are slightly different, focussing on original, high quality public art that is:
- designed, produced or facilitated by an artist or craftsperson;
 - engages local communities;
 - is publicly accessible; and
 - has a legacy (there would need to be a permanent record of temporary artwork).

Small-scale, public art grants are for projects (normally, seeking up to £15,000 of public art S106 funding. Applications are expected from local organisations or community groups (not directly by an artist). Public art within schools (which is visible to school users, parents and visitors) comes within the scope of public art S106 funding.

55. Any organisation or community group seeking S106 funding will need to have its own bank account.

To be suitable for S106 funding, project proposals need to...

2. be **AFFORDABLE** within the S106 funding available for the relevant contribution type within that part of the city to which it relates

- a. The availability of S106 funding is running down and is spread unevenly (see www.cambridge.gov.uk/s106 for more details).
- b. If the relevant S106 contribution types are not available in the ward in which the proposed project is located and the project would not benefit nearby developments in neighbouring wards in the same area of the city (where funding may be available), it is not likely to be worthwhile making an application in 2016/17.
- c. Please bear in mind that councillors may not wish to invest all the available contributions available for a particular contribution type in a particular part of the city into a single project.
- d. Grant applicants must also give assurances that they need the S106 funding that they are seeking (i.e., that they do not already have sufficient funding for the project).
- e. Local groups seeking S106 grants should carry out other fund-raising too. Alternative sources of funding are suggested on our Developer Contributions web page

3. demonstrate that it would represent an **EFFECTIVE USE OF RESOURCES** in line with the city council's strategic objectives

Priority will be given to those proposals which can provide evidence to show that the project would:

- a. help to mitigate the impact of development in Cambridge; and
- b. be consistent with council strategy documents, facility audits and related committee reports.

In the 2016/17 priority-setting round, please focus proposals for play area improvements on Type B (local) or Type C (neighbourhood) play spaces, as set out in the Outdoor Play Investment Strategy 2016-21.

4. provide **ADDITIONAL BENEFIT**

- a. S106 funding cannot be used for replacing like-for-like facilities/equipment or repairing/maintaining existing facilities.
- b. S106 grants are not available for buying land and property, but could be made available to refurbish/extend facilities once sites have been acquired by other means.

To be suitable for S106 funding, project proposals need to...

5. be **ACCESSIBLE**, in line with the council's grants and equalities policies

- a. Successful grant applicants have to sign community use agreements, which are then monitored. These make clear that grant recipients shall not discriminate against any community group wishing to hire the space (e.g., in relation to race, gender, religion, disability, sexual orientation and/or, age).
- b. Whilst local organisations may set reasonable charges for the hire and use of the S106-funded facilities for use by community groups, S106 funding cannot be used for overtly profit-making purposes.

6. be **REALISTIC, ACHIEVABLE AND READY TO BE CONSIDERED**

- a. Proposals need to be clear about what is proposed, where it would be and how it would be implemented.
- b. Applicants seeking S106 grant funding for a project they would take forward would need to give details of preparations being made to secure planning permission (where necessary) and steps taken to consult the local community about the proposed project.
- c. Grant applicants would also need to provide evidence of their fund-raising efforts and expected timescales for completing fund-raising.
- d. Priority will be given to project proposals which could reasonably be expected to reach the final stages of project delivery within 18 months of the priority-setting decision being made.

7. Be **FINANCIALLY VIABLE, WITH ROBUST MANAGEMENT PLANS**

- a. The council would need to be satisfied that sufficient resources are in place to ensure that the effectively management and running of the new facility in future.
- b. Grants applicants seeking S106 funding would need to demonstrate that they could continue to resource the project in future (Grant agreements feature clauses for returning to the council grants received (in whole or in part) should the project not provide the expected public benefit for its expected lifespan).

Extracts from 2015/16 S106 application for the Mill Road Gateway sign project

| | |
|---------------------------|---------------|
| Where would it be? | Donkey Common |
|---------------------------|---------------|

What sort of improvements do you have in mind?

This project seeks to act as a gateway entrance marker for Mill Road, provide information about the local area (including local history, shopping and community life). The sign will add character to Donkey Common and highlight Mill Road as a distinctive shopping and community area.

Why is this project needed?

The sign was suggested by traders and residents around Mill Road. It is supported by many members of the community....The city centre benefits from tourist footfall and the BID. Mill Road has as much to offer as a visitor destination – we'd like to draw attention to it. We'd like to celebrate within the local community the unique identity of our neighbourhood.

How would local communities benefit from this project?

The Mill Road community will benefit – this is both residents and traders. No individual businesses are advertised on it, but it will give an overview of what's available. It's opportunity for us also to create legacy for the Mill Road History Project and share information about our community life. Each information panel will include details of websites highlighting what's special about Mill Road. It will be useful for any visitors to the area. We hope that by lighting the lettering at the top of the sign that it will attract people to come and take a look at it.

We want to engage local groups in the design of the information panels. The base of the structure is a four sided plinth. We'd like to use an artist or facilitator to run workshops in order to come up with the designs. The four sides will cover, 'Local History' (we'll work with Mill Road History Project on this), 'Food and Drink', 'Shops and Services' and 'Culture and Community'. This public engagement will ensure that the local community have participated in the design process and feel some ownership over the sign.

7. Have any preparations taken place about this proposal?

We have planning permission (14/0727/FUL), permission to install on Donkey Common, plus specification and quotes from approved contractors who can manufacture it. All we need is the funding to be able to build and install it.

Costs for the Mill Road Gateway sign:

- £24,000 sign fabrication and installation
- £5,000 vinyl design for plinth sides and printing (we would like to use an artist to run workshops with local community groups to design the panels).
- £2,000 for power connection
- £3,000 for project management

This proposal was reported to the Community Services Scrutiny Committee on 8 October 2015. The Executive Councillor for City Centre and Public Places agreed to allocate up to £42,000 for this project, subject to project appraisal. This differs from the £34,000 cost estimate (mentioned above) in order to allow the project appraisal to consider different options for powering the sign (e.g., mains-powered, solar-powered or no lighting).

Here is an artist's impression of the Mill Road gateway sign.

© Nicholas Hawksworth, Wayfinding Consultants Ltd, March 2014.

