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EXECUTIVE DECISION RECORD

A1 Service Area	Planning Policy
A2 Title	National Forest S106 financial contribution
A3 Decision Taken By	Deputy Leader
A4 Chief Officer	Please print name: Sal Khan Please sign name: 
A5 Leader / Deputy Leader	Please print name: Cllr G Allen Please sign name: 
A6 Date of Decision	22nd July 2019

Confidentiality

A7 Is this Decision confidential by containing exempt information as described in Schedule 12A of the Local Government Act 1972?	No
A7.1 If yes, please state relevant paragraph from Schedule 12A LGA 1972.	N/A

Scrutiny

A8 Which Scrutiny Committee should this decision be submitted to?	(Please tick as appropriate) ✓
Scrutiny (Audit & Value for Money Council Services) Committee	✓
Scrutiny (Economic Growth, Communities and Health) Committee	✓


<p>B1 What is the Decision?</p>	<p>To transfer monies from two S106 contributions to The National Forest Company to be spent on the maintenance of three publicly accessible woodlands at Dunstall, Tatenhill and Anslow.</p> <p>Both S106 agreements include clauses relating to the provision and management of tree planting.</p> <p>All monies have been provided by the relevant developer to the Borough Council, totalling £14,658.92.</p>
<p>B2 What are the reasons for the Decision?</p>	<p>The three existing woodlands are in need of maintenance, which will ensure their health and longevity aswell as improving accessibility and visitor experience. Maintenance will include the following:</p> <ul style="list-style-type: none"> • Ride widening, which is coppicing or removing the first few lines of trees next to a path to open the path out and make it easier for public access. • Replacing way markers and interpretation boards • Installation of bird and bat boxes • Removal of rabbit fencing and tree guards
<p>B3 What are the contributions to Corporate Priorities?</p>	<p>The projects will contribute towards the community regeneration and environment and health and well being priorities by continuing to provide quality woodland access.</p>
<p>B4 What are the Human Rights considerations?</p>	<p>There are no Human Rights issues arising from this decision.</p>

Financial Implications

B5 What are the financial implications?	<p>The main financial issues arising from this decision are as follows:</p> <p>Monies have been received by East Staffordshire Borough Council who have a duty to spend the monies in accordance with their intended use.</p> <p>The referenced S106 agreements do not specify a time limit when the monies need to be spent.</p> <p>The recommendation is that monies received in relation to the S106 for planning applications PA/00588/070/PO and PA/01445/010/JPM totalling £14,658.92 are transferred to the National Forest Company.</p>
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Revenue	2019/20	2020/21	2021/22
	£	£	£
National Forest Company	14,658.92	-	-
S106 Contributions	(14,658.92)	-	-
Impact on MTFS	0.00	-	-

Capital	2019/20	2020/21	2021/22
	N/A	N/A	N/A

The finance section has been approved by the following member of the Financial Management Unit:	<p>Please print name: ANYA MURRAY</p> <p>Please sign name: </p>
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Policy Framework

B6 Is the Decision wholly in accordance with the Council's policy framework?	Yes
B6.1 If No, does it fall within the urgency provisions (Part 3 of the Constitution)?	NA
B6.2 Has it got the appropriate approvals under those provisions?	Yes
B7 Is the Decision wholly in accordance with the Council's budget?	Yes
B7.1 If No, does it fall within the urgency provisions (Part 3 of the Constitution)?	NA
B7.2 Has it got the appropriate approvals under those provisions?	Yes

Equalities Implications


B8 What are the Equalities implications:
B8.1 Positive (Opportunities/Benefits): Spending the S106 in line with their intended use will ensure continued access to quality woodlands for communities
B8.2 Negative (Threats): Lack of management at woodlands may mean they become inaccessible for all visitors
B8.3 The subject of this decision is not a policy, strategy, function or service that is new or being revised. An equality impact assessment is not required.

Risk Assessment

B9 What are the Risk Assessment implications:
B9.1 Positive (Opportunities/Benefits): Spending the S106 in line with their intended use will ensure continued access to quality woodlands for communities
B9.2 Negative (Threats): If S106 monies are not spent they can be requested to be returned to the developer and the infrastructure they were intended to provide will not be delivered.
B9.3 The risks do not need to be entered in the Risk Register.

Legal Considerations

B10 What are the Legal Considerations:
B10.1 The main legal issues arising from this decision are as follows: That the monies are spent in accordance with the clauses of each individual S106 agreement. It is also important that more than five S106 contributions are not used for the same project, in order to be compliant with the CIL regulations. Whilst it is likely that the pooling restriction will cease following revised regulations in 2019/2020 it is nevertheless a current restriction and important consideration for all S106 processes. An assessment of the relevant clause from both S106 is set out at the end of this report.

<p>This section has been approved by the following member of the Legal Team:</p>	<p>Please print name: ANGELA WAKEFIELD</p> <p>Please</p> 
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Sustainability Implications

<p>B11 What are the Sustainability implications:</p>
<p>B11.1 The proposal would result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures). The positive/negative impacts are set out below</p>
<p>B11.2 Positive (Opportunities/Benefits):</p> <p>Woodlands play an important role in capturing carbon, cooling the environment, and creating a green infrastructure network for biodiversity as well as controlling water run off rates.</p>
<p>B11.3 Negative (Threats):</p> <p>Climate change represents a challenge for woodlands as projected increases in temperature, changes in the seasonality of rainfall, and an increased frequency of extreme weather can impact tree species resilience.</p> <p>By actively managing woodlands, their resilience to the effects of climate change can be increased.</p>

Health & Safety Implications

<p>B12 What are the Health & Safety implications:</p>
<p>B12.1 A Risk Assessment has not been carried out and entered into Harriet for all significant hazards and risks because there are no significant hazards or risks arising from this decision.</p>
<p>B12.3.1 Positive (Benefits)</p> <p>Management of woodlands will ensure they remain accessible to visitors, who will experience health and wellbeing benefits from accessing them.</p>
<p>B12.3.2 Negative (Threats)</p> <p>If woodlands aren't well managed and aren't accessible, users may not use the natural asset.</p>

Key Decision

B13 Is this a Key Decision?	Yes
Note: A Key Executive Decision is one where:	
<ol style="list-style-type: none"> 1. REVENUE – Any contract or proposal with an annual payment or saving of more than £100,000 2. CAPITAL – Any capital project with a value in excess of £150,000 3. A decision which significantly affects communities living or working in an area comprising two or more wards. 	
B13.1 If this is a Key Decision, is this an urgent decision such that a delay caused by use of the Call-in Procedure would <u>seriously</u> prejudice the public interest?	<i>No (unless the grant is time limited)</i>
B13.2 If yes, has the Mayor or in his/her absence the Deputy Mayor or in his/her absence the Chair of the relevant Scrutiny Committee agreed that the decision will be exempt from Call-in?	No

NOTE: If this decision is subject to the Call-in Procedure it will come into force, and may then be implemented, on the expiry of 3 working days after publication – unless 10 Members of the Council call in the decision.

Please send the original signed document to andrea.davies@eaststaffsbc.gov.uk

Developer	Application Number	Clauses and definitions	Total	Comments and conclusion
Anson Properties	PA/00588/070/PO	<p>1.1 "the Scheme" shall mean a scheme for landscaping and planting trees (which shall be mainly a mix of trees which are native to Great Britain) in the Forest Area to be approved by ESBC.</p> <p>1.2 "the Forest Area" means the land edged green on Plan 2 titled Landscape Concept Phase 2 02 Rev G that is to be the subject of the Scheme. Where 20% of the Land is not available for national forest landscaping and planting the National Forest Sum will be payable.</p> <p>1.3 "the Works" shall mean all works required to implement and complete the landscaping and tree planting in accordance with the Scheme.</p> <p>1.4 "the National Forest Sum" equals 20% of the area of the Land in hectares, minus the Forest Area in hectares, multiplied by £10,000 per hectare Index Linked.</p>	£6,621.60	<p>The S106 states that where on site landscaping is not provided, an off-site financial contribution shall be made.</p> <p>The clause doesn't specify what the off-site financial contribution should be spent on (for example only tree planting) and therefore as it is not defined, the clause is compatible with the proposed use of the funds for maintenance.</p>

The questions contained in this questionnaire are not to be altered in any way. If you have any queries regarding the contents of this document, please contact Andrea Davies Ext 1306 or refer to Part 3 Section 6 of the Constitution.

Developer	Application Number	Clauses and definitions	Total	Comments and conclusion
Trent and Dove	PA/01445/010/JPM	<p>“the Scheme” shall mean a scheme for landscaping and planting trees (which shall be mainly a mix of trees which are native to Great Britain) in the Forest Area approved by the Council such approval not to be unreasonably withheld or delayed</p> <p>“the Forest Area” shall mean the sum of all areas of land within the Land or elsewhere that are to be the subject of the Scheme.</p> <p>“the Works” shall mean all works required to implement and complete the landscaping and tree planting in accordance with the Scheme.</p> <p>“the National Forest Sum” equals £10,928.00 Index Linked</p> <p>The Owner covenants with the Council with the intent that these are planning obligations for the purpose of Section 106 of the Act:</p> <p>2.1 Not to Commence the Development without having first:</p> <p>2.1.1 submitted to and obtained the approval of the Council to the Scheme provided that such approval shall not be unreasonably withheld or delayed;</p> <p>2.1.2 deposited with the Council a sum of money or a bond to an amount and in a form to be determined by the Council (acting reasonably) such amount of money and bond to be equal to (in the reasonable opinion of the Head of Planning Services) the cost of implementing and completing the Works; and</p> <p>2.2 Prior to the Occupation of the Development, to make arrangements for the future management and maintenance of the Forest Area (if any) and to obtain the</p>	£8037.32	<p>Paid in September 2009</p> <p><u>No time limit for expenditure.</u></p> <p>The clause doesn't specify that the contribution should be provided only by on site planting or planting within the vicinity of the application site and therefore the proposal is consistent with the clause.</p>

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Developer	Application Number	Clauses and definitions	Total	Comments and conclusion
		<p>approval of the Head of Planning Services to such arrangements, such approval not to be unreasonably withheld or delayed.</p> <p>2.3 Not to occupy the Development without having first completed the Works (if any) to the Satisfaction of the Council in accordance with the Scheme.</p> <p>2.4 If applicable after completion of the Works, to maintain and manage thereafter the Forest Area in accordance with good woodland management and the arrangements approved by the Head of Planning Services to the Satisfaction of the Council.</p>		

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