Procedure for spending S106 commuted sums on public open space, play, sport & recreation

Background
In April 2009 Shropshire Council became the local planning authority for the county of Shropshire. Shropshire Council, therefore, has an undertaking to ensure all developments adhere to planning policies and that the agreed terms made by the planning authority and landowners/developers are administered and undertaken in accordance with the Section 106 of the Town and Country Planning Act 1990 (S106).

S106 Agreements
The S106 agreement allows a local planning authority (LPA) to enter into a legally-binding agreement or planning obligation with a landowner/developer in association with the granting of planning permission. These agreements are a way of delivering services and infrastructure, such as highways, public open space, education, health and affordable housing.

Public Open Space (POS)
With respect to the provision of public open space, play, sport and recreation as part of new housing developments, Shropshire Council has produced Interim Planning Guidance (IPG) which includes developer contributions through S106 for children's play space (including areas of play for teenagers), informal open space (amenity green space) natural and semi natural open space and outdoor sport. Developments will be expected to be designed with adequate open space on site to meet the local quantity standard of 3ha per 1000 population (equivalent to 30 square metres per person). Occupancy of a development will be assumed to be on the basis of one person per bedroom. The IPG can be found at **www.shropshire.gov.uk/planning**

Shropshire Council's Outdoor Partnership Service
The Outdoor Partnership Service has an overview for developing and improving public open spaces and outdoor recreation facilities across Shropshire. As such the Service, on behalf of Shropshire Council, administers the spending of S106 funding specifically for POS identified within the IPG. The amount of S106 funding for recreational public open space is reviewed annually and a programme of delivery is undertaken following local consultations with Town & Parish Councils. The Service works closely with the Planning Policy & Development Management Teams within Shropshire Council to agree and implement S106 agreements.

The Outdoor Partnership Service, however, recognises that there are a number of other accountable bodies, such as Town and Parish Councils that own and manage public open space and play facilities. Where a development takes place either on land owned or managed by Town and Parish Councils, then arrangements may be made for S106 contributions, including maintenance cost, to be transferred to the Town/Parish Council, for them to deliver the terms set out in the S106 agreement.

Generally the requirements of the S106 are very specific on what recreational provision should be provided and how the S106 funds are to be allocated within the development site boundary. However, there are some S106's that are worded in such a way that the

S106 money can be spent within the 'vicinity' or 'local area' or 'within the parish' of the development site, for example.

In such instances, the S106 funds will only be allocated to public open space, play, sport and recreation projects identified within the local 'Place Plan'. Place Plans form part of Shropshire Council's Planning Policy - Local Development Framework Implementation Plan, and are intended to be 'live' documents, identifying deficiencies in provision and support for investment improvements. The Place Plans and Implementation Plan are reviewed and updated annually in partnership with local infrastructure and service providers and the local community.

Planning Obligation
Shropshire Council as the LPA still remains liable for the implementation of all S106 agreements and any claw back payments should the terms of the S106 not be met. Therefore, by accepting any S106 contributions from Shropshire Council, Town and Parish Councils will be expected to repay any sums that are not spent in accordance with the S106 agreement, for which repayment from the Council is sought by the party that initially paid such sums to the Council. In all circumstances, the transfer of any S106 funding will only take place if it can be demonstrate that there is the capability and capacity to deliver the requirements of the S106.

Therefore, as a minimum requirement before any commuted sums are passed on, the following should be provided on the attached form below:

- What are the POS requirements, if not specifically set out within the S106
- A breakdown of how the S106 contributions will be spent
- A lead person within the organisation is identified to deliver the project
- An outline of how any community consultation will take place and consultation with children over the design of any play areas.
- An outline of the timescales for spending the S106 contributions
- An ongoing maintenance programme, in perpetuity, with respect to play equipment and open space management.

APPLICATION FOR DELIVERING SECTION 106 AGREEMENT FUNDING FOR RECREATION PUBLIC OPEN SPACE AND PLAY

Name of Organisation: _____

Project Name: _____S106 Reference: _____

Start of project date: _____

End of project date: _____

Amount of Section 106 funding applying for: £_____

Acknowledgment: I/we understand that we will be expected to repay any sums that are not spent in accordance with the S106 agreement

Name of person representing the organisation:_____

Please provide a description of how the project will be delivered and what infrastructure will be purchased through S106 funding.

_____

Outline the consultation that has or will take place with the community regarding the project

_____

How will this project meet the recreational needs of the surrounding local community?

_____

Please provide a timescale with key milestones for the project delivery.

Please provide an ongoing maintenance programme for the project