

**Adderbury Parish Council Statement**  
**Section 106 Funding**

*Section 106 agreements are drawn up and agreed between a local planning authority, a developer and a land owner and have to be acceptable in law. The County Council also has an input into this process but Parish Councils are not involved.*

*Section 106 agreements can be varied by a Deed of Variation, subject to agreement by the local planning authority, the developer, the land owner and any other named person in the legal agreement but it is not a common occurrence.*

*For a local planning authority to request Section 106 funds, it has to be acceptable under planning law. The law states that the allocation of funds from a development cannot be for general expenditure and there are specific remits on how and where the funds can be spent.*

**The Milton Road Project**

*The Section 106 funds for the Milton Road project were allocated from a number of S106 agreements, as well as the Nicholas King Homes Deed of Variation, all of which were agreed by the local planning authority (Cherwell District Council), the County Council (OCC), the developers and land owners.*

*The Nicholas King Homes Deed of Variation was acceptable to all parties because land on their site, had initially been allocated for the development of a community facility/hall.*

*However, as the land adjacent to the site had already been transferred to the Parish Council for a community facility and sports pitches, there was no requirement to build another hall on the Nicholas King land.*

*Therefore, in these circumstances, instead of the land on the Nicholas King site being transferred to the Parish, Section 106 funds were allocated to the Parish for the purpose of funding the development on the adjacent land and possible updating of the facilities at the Lucy Plackett Playing Field.*

*During this process for the Deed of Variation, Cherwell District Council's (CDC) legal team and Planning officers were clear that the funds could not be used for any other purpose, other than for a community facility and sport pitches on that adjacent land, and towards possible improvement of facilities at the Lucy Plackett Playing Field, because it was a similar use. The PC was told that a variation would not be possible just to provide general funds for the PC to use.*

*If there was now a request for any change to the allocated Section 106 funds to another project, it could potentially be challenged by the developer/landowner and they could refuse to agree to another Deed of Variation.*

*The developer/land owner could also legitimately question why they were told originally that funds were required for a community facility and sport pitches project only two years ago but now they were needed for a project which was not previously mentioned.*

*At this point, the developer/land owner could also take the view that, if the funds are not required for their original use, they could ask for them to be returned. This would clearly not be of benefit to the Parish in any form.*

*As far as Cherwell District Council and the Parish Council are concerned, the S106 agreements are in place, the Deed of Variation is in place and the funds in these agreements are allocated to the Milton Road project. With the agreement of CDC, the funds are already starting to be spent by the Parish Council to progress the project; on the planning application, discharging the pre-commencement conditions, preparing the ground for the pitches and designs for the pavilion.*

*At its meeting on 27 November 2018, the Parish Council confirmed its commitment that all of the S106 funds allocated to the Milton Road project, from the Section 106 agreements and the Deed of Variation, are to be spent on that project.*

### **Traffic Calming Project**

*Funds of £5200 have been allocated by the Parish Council to the traffic calming project. There are also Section 106 funds of circa £25,000 which have been allocated to traffic calming and are held at OCC and their officers have been supporting the Parish Council's Environment Committee to move the project forward.*

*Another productive meeting of the Committee was held on Tuesday 19 March 2019 and there are a number of ideas which are being progressed. Information on the measures which are being investigated is available on the PC web site or by contacting the Clerk to the Parish Council at [adderburypc@hotmail.com](mailto:adderburypc@hotmail.com)*