

Cabinet

15 October 2024

Allocation of s106 developer contribution funding for community facilities at Mampitts Green, Shaftesbury

For Decision

Cabinet Member and Portfolio:

Cllr. S Bartlett, Planning and Emergency Planning

Local Councillor(s):

Cllr Jeanes, Cllr Beer

Executive Director:

Jan Britton, Executive Lead for Place

Report Author: Matthew Piles

Job Title: Corporate Director – Economic Growth and Infrastructure

Tel: 01305 221336

Email: matthew.piles@dorsetcouncil.gov.uk

Report Status: Public (the exemption paragraph is N/A)

Brief Summary:

Dorset Council is the accountable body for managing the collection and expenditure of developer contributions. This report details competing proposals by two parties which are both applying for s106 developer contribution funding to deliver, own and manage much-needed community facilities for Shaftesbury that are required by planning obligation and planning policy.

Each proposal has been appraised and the outcome is finely balanced. Strengths and weaknesses appear in both proposals, with the Community Land Trust providing more detailed and substantiated project costings, and Shaftesbury Town Council providing stronger governance as a democratically elected accountable body. The recommendation is to award developer contribution funding to Shaftesbury Town Council on the basis that the proposal demonstrates a stronger position with regard to operational capability and financial resilience.

A series of funding conditions are recommended to address matters identified through the appraisal process. These conditions require additional information to be provided by the awarded party before any s106 financial contributions, and land, are transferred.

Recommendation:

- a) To award ringfenced s106 developer contributions up to the value of £876,278 to Shaftesbury Town Council for the purpose of building and operating a Community Hub and landscaped open space and recreational facilities at Mampitts Green, Shaftesbury, subject to fulfilment of the conditions set out in paragraphs 6.7 to 6.14 of this report.

That the appraisal of further information required by the conditions is agreed by the Head of Planning in consultation with the Cabinet Member and Portfolio for Planning and Emergency Planning, and any subsequent transfer of funds (and land) is made under the relevant officer delegation in accordance with the s106 protocol process.

Or;

- b) Not to award ringfenced s106 developer contributions up to the value of £876,278 to Shaftesbury Town Council or contributions up to the value of £949,000 to Mampitts Green CLT CIO, for the purpose of building and operating community facilities at Mampitts Green, Shaftesbury, and to require parties to submit fresh proposals to address the weaknesses set out in this report.

Reason for Recommendation:

To support the delivery of much-needed community facilities to serve the residents of Shaftesbury by fulfilling the requirements of longstanding planning obligations linked to the Maltings development.

The recommendation is based on a thorough assessment of each proposal including compliance with relevant planning policy, planning obligation, cost, funding sources, operation, timescales, project management, project monitoring, and consultation. Details of which can be found in the main report and appendix B.

1. Report

- 1.1 Over recent years, Shaftesbury has seen significant expansion of the town, particularly eastwards with the build out of sites allocated for housing and mixed-use development. Local Plan policies require that growth at Shaftesbury is supported by necessary infrastructure and community facilities to meet the needs of the expanded town.
- 1.2 Major expansion has taken place through the Maltings development, reference: 2/2002/0415. Within that development, land has been safeguarded for a Neighbourhood Hall and secured by way of s106 legal agreement. The land, commonly referred to locally as Mampitts Green, remains in the ownership of the developer Persimmon Homes and continues to be managed and maintained by them ahead of transfer to a nominated body.
- 1.3 Alongside the safeguarded land, Dorset Council has secured several financial contributions from various development sites in Shaftesbury totalling £876,278 to support the provision of community facilities on the Mampitts Green site.
- 1.4 When planning obligations are secured for community infrastructure, it is sometimes the case that a town or parish council or other third party will be best placed to oversee implementation and delivery. When this happens, Dorset Council require assurances that the funds will be spent in accordance with planning and legal requirements.
- 1.5 The availability of the Mampitts Green land and associated financial contributions has presented an opportunity for an organisation to build, own and operate a community facility to serve the local community, and deliver on the requirements of planning policy, planning permission and associated legal agreement. This situation has prompted Shaftesbury Town Council and Mampitts Land Community Land Trust (CLT) CIO to make separate bids for the land and associated financial contributions.
- 1.6 With Dorset Council being the accountable body for the spending of developer contributions, it is important that due diligence is followed to establish the appropriateness of the relevant body to manage project proposals before money and land are handed over. In 2021 Dorset Council approved a *protocol for planning obligation funding allocations* to provide the Council with clear principles and a consistent approach, while also securing greater accountability.
- 1.7 This report summarises the bids submitted by Shaftesbury Town Council and Mampitts Lane CLT CIO and sets out officer recommendations

following an objective assessment of each bid within the context of the planning obligation protocol and processes described above. Appendix A provides site plans for each proposal, Appendix B provides detail of each application appraisal with summary table showing comparison of findings against assessment criteria.

- 1.8 Following unsuccessful efforts to encourage collaborative working on a single proposal, both parties previously applied for s106 funding in 2022. At that time, officers made a provisional award to the Community Land Trust, but funding terms could not be agreed. Since 2022, further opportunities have been provided for both parties to update and submit proposals, the most recent opportunity closed on 16 August 2024 and the detail in those submissions forms the basis of this Cabinet report.

2. The site

- 2.1 The site is located to southeast of Maple Road, south of Snowdrop Wynde and at the east end of Mampitts Lane and has an area of 0.7 hectares. The western part of the site is currently a maintained area of open space where children play, it is occasionally used for community events. It also provides visual relief from the built form. A meadow area is fenced off from the green and enclosed by scrub. This area is not utilised but it provides ecological value and a gateway to the countryside and National Landscape (AONB) beyond. The site is broadly level with a gentle slope downwards to the east. A band of trees and scrub that runs along the southern boundary of the site adjacent to Mampitts Lane is protected by Tree Preservation Orders.
- 2.2 Private amenity space provision across the Maltings development is minimal with local people relying on communal space providing outdoor amenity.

3. The Shaftesbury Town Council Proposal

- 3.1 Shaftesbury Town Council proposes to build, own, manage and operate a new one and a half storey community hub with associated public amenity space. The community hub building is proposed with first floor dedicated office space. At ground floor a café is proposed, and space is available so that the café area can also be used as an informal community venue. The proposal includes parking along Maple Road.
- 3.2 The café area includes bifold doors opening onto a covered seating area to the front of the building, facing toward the centre of the Maltings

development. This allows residents to enjoy both indoor and outdoor areas, whilst maintaining surveillance at the heart of the community.

- 3.3 In addition to useable green space to the front of the community hub building, public outdoor amenity space is proposed to the east, behind the community building. Immediately to the rear of the facility, existing trees and scrub are to be retained, rough grassland is to be improved and a bespoke shelter/social space is to be included. Behind this area – a larger useable circular amenity lawn with islands of shrubs is to be landscaped with natural play facilities; this area would be enclosed by an accessible self-binding gravel pathway.
- 3.4 The Town Council's proposal has been developed by the Mampitts Advisory Committee, a group of residents and town councillors working together to shape a locally-led approach to delivering the project. The proposal has been guided and informed by community engagement including leaflet-drop and pop-up events.

4. The Mampitts Lane Community Land Trust CIO proposal

- 4.1 Mampitts Lane Community Land Trust CIO is a charity run by several residents from the Maltings housing estate. The Community Land Trust (CLT) formed in 2020 as a Community Interest Company with the purpose of becoming the body nominated by Dorset Council to deliver manage and operate a community hall and nature park on the Mampitts Green site. In 2022, the CLT became a Charitable Incorporated Organisation in order to demonstrate their commitment to long-term charitable status.
- 4.2 The proposal from the Mampitts Land CLT is to build, own, manage and operate in perpetuity a community/neighbourhood hall which also incorporates a community café room, with car parking and play facility set amongst a landscaped ecological nature park environment. The proposal incorporates gated access from Maple Road which will lead to a dedicated parking area for 23 standard parking spaces and 1 x disabled parking space. Within the proposal, the community building sits mid plot and adjacent to the parking area. The building accommodates a main hall with mezzanine floor and additional meeting room. A café and kitchen area are included, and space retained for a storeroom, shower room and toilet facilities.
- 4.3 Within the external areas to the north of the building, an oak framed gazebo is proposed which will be situated in a newly landscaped area of rough grass, wildflower, trees and shrubs. An area to the east of the site is

to be used as an events area with the main field used for fetes, sport, games and community events and will be of a size that can accommodate a safe landing area for Air Ambulance.

- 4.4 It is proposed that the hall will be open to all, to enable residents of all ages and abilities access to community resources including internal and external meeting spaces.
- 4.5 This proposal has been shaped by community consultation including a brochure circulated to residents in southeast Shaftesbury and pop-up events in the Mampitts Lane area. In 2020 and 2021 Dorset Council received petitions totalling 732-signatures from residents supporting the proposals prepared at that time.

5. Appraisal of the proposals

- 5.1 The availability of funding has prompted both parties to apply through a written submission (application form) and supporting documentation. Dorset Council officers have appraised each proposal against the criteria required of the application process. In the section below, a summary of the appraisal findings is presented. Fuller findings of each assessment can be found in Appendix B.
- 5.2 **Planning Policy** (*to ensure the proposal is relevant to the purpose of the planning obligations which relate*). Both proposals provide a range of community facilities which meet the requirements for which the planning obligation was established in 2007. The s106 legal agreement associated with the Maltings development identifies what land uses would be appropriate within the site. Each proposal contains uses which accord with this plus ancillary uses which assist in the operation of the site and help provide long-term financial sustainability.
- 5.3 **Planning status** (*to establish whether the proposal has sought/received planning permission*). Both proposals materially change the use of the land and as such require planning permission. Evidence of planning permission being sought and granted is a key component in the demonstration of project deliverability.
- 5.4 Planning applications exist for both proposals. Northern Area Planning Committee resolved to grant planning permission for the Community Land Trust proposal with formal planning approval issued on the 8th of March 2024. The planning committee resolved to grant planning permission for the Town Council proposal on the 1st October 2024.

- 5.5 **Funding requirement** (*to establish what funding sources support the project*). Both proposals rely heavily on the availability of s106 funding for delivery and operation. It is recognised that bidding for external funds may not be achievable at this stage while the land remains in control of the developer. In both cases, the project cost exceeds the s106 budget of £876,278, but since both funding applications were prepared, Dorset Council has received further s106 contributions to the value of £113,372 for Community Hall facilities from the Wincombe Lane development in Shaftesbury.
- 5.6 The CLT proposal has a total cost of £949,000 and is over-budget by approximately £72,000. The proposal relies on some of the additional funding that is secured from the Wincombe Lane development to balance the budget. The CLT proposal also relies on yet unpaid commuted sums for the management and maintenance of open spaces that are due to be paid when the land transfers from Persimmon Homes. The Town Council proposal includes a smaller funding shortfall of approximately £24,000 but doesn't take account of the further s106 funding availability. The Town Council has indicated the potential to address future cost overrun through the budget setting process for 2025/26, though there is no guarantee additional will be secured through that process at this stage.
- 5.7 **Cost** (*to establish costs associated with the works, and whether there is appropriate evidence to demonstrate the works are verifiable and realistic*). The CLT proposal includes very comprehensive evidence demonstrating the delivery cost of the facilities and associated works, including quotes and estimates from builders and suppliers. The detail of the evidence submitted demonstrates that the cost of their proposal is verifiable and realistic, putting confidence in the ability for the proposal to be delivered within budget. In contrast, the Town Council proposal relies on building cost estimates at this stage, which have been prepared by an architect and landscape architect. If awarded funding, the Town Council expects a tender process to follow to establish a fixed cost.
- 5.8 Both proposals provide indicative operating costs and use income and expenditure estimates taken from comparable operations to inform their operating models. The CLT proposal provides detailed cashflow information on income and expenditure, using mainly indicative hire rates and general benchmark income from comparable village and community hall facilities.

- 5.9 Both proposals have explored a volunteer led operating model. This is the only model offered by the CLT, whereas the Town Council have explored other options including using a hospitality operator or social enterprise to run the café and hub operation. These alternative options have the potential to reinvest profit into the running of the facility and associated resources and demonstrate a degree of community buy-in to the facility.
- 5.10 As the CLT proposal relies almost entirely on Trustee volunteers, there is concern over future resilience and additional cost implications in the event that volunteers step down. The operation of the CLT proposal relies on any surplus income generated by the hire of the hall and event space to help fund future hall maintenance. Higher than anticipated running costs caused by an increase in the number of paid positions and/or lower than predicted revenue will result in a reduced surplus or shortfall of funds. The CLT proposal does not identify or manage this serious risk.
- 5.11 **Delivery timescale** (*to ensure that the development can be fulfilled in a realistic and achievable timeframe*). Both proposals seek to commence delivery phases following the Cabinet decision, though there are slight variances in the build phase timeframe with the CLT proposal having a more realistic delivery milestone of the beginning of 2026. This milestone is guided by a comprehensive timeline of project stages. Due to the outstanding requirement for land to transfer from the developer Persimmon Homes, there are risks to both the commencement and delivery stages of the project, these risks are outside the control of both parties.
- 5.12 Work is currently underway to facilitate the transfer of land to Dorset Council including the resolution of land condition snagging issues.
- 5.13 **Project Management and Capacity** (*to ensure that the project has appropriate persons involved to deliver and manage the project successfully*). Both proposals have placed focus on the initial delivery stages of the project. No major concerns are raised in the project management aspects of the build phases, and the CLT has provided evidence of its constitution which details powers, controls over the payment of goods, and the liability of members if the CLT CIO is wound-up. No evidence has been provided that details the CLT's financial status with only limited information available through the charities commission website. This results in some unknowns around the current financial capability of the CLT.

- 5.14 The Town Council has published articles of association, up to date financial records, and a sound budget position with access to wider resources providing assurance over long-term governance and management capability.
- 5.15 **Management and Monitoring** (*to ensure that the project is capable of delivering on its stated aims and objectives*). Notwithstanding the points raised in the previous section, neither proposal provides detail on longer-term monitoring (beyond the initial delivery stages). As a minimum, Dorset Council expects to see regular evidence of performance including financial reports, booking and marketing activity, and testimonies from users to establish how the project is performing.
- 5.16 **Community engagement and support** (*evidence of community input and endorsement of the proposals*). Both proposals have undertaken community consultation events and shared leaflets and brochures with the community. The Town Council proposal is regarded as being more informed by community needs, whereas the CLT proposal provides evidence of engagement via petition to support the project proposals.
- 5.17 The Town Council most recently engaged with the community in 2023 ahead of planning application submission. The CLT last engaged with the community in 2021. Overall, this approach demonstrates the town council proposal is more informed, based on more up to date input from the community.

6. Conclusion and Recommendation

- 6.1 Dorset Council is in receipt of two proposals for s106 funding. Both proposals would deliver a comparable form of development sharing similar features, albeit with a different disposition of these features across the site. Both proposals have gone to great lengths to reach this stage including the securing of appropriate planning consent. Despite efforts to encourage collaborative working, it is clear that these proposals will only move forward on their own.
- 6.2 The assessment has identified that each proposal has varying degrees of strengths and weaknesses, and the officer recommendation is finely balanced with the Community Land Trust providing more detailed and substantiated project costings, and Shaftesbury Town Council providing stronger governance and resilience as a well-established and experienced democratically elected accountable body.

- 6.3 Where addressable weaknesses are identified, it is necessary to recommend conditions for the release funding (and land) in order to satisfactorily deal with the matters raised.
- 6.4 The funding shortfalls in both proposals can be addressed through additional s106 funds which Dorset Council have now received. Through the assessment process, concerns have been raised in the operational capability of both proposals with only limited high level information provided in this regard. While the CLT proposal is informed by a greater degree of information relating to operational costs, there are recognised capability risks due to the CLT's limited experience, current unclear financial standing and fall-back support. All matters which have not been suitably addressed in the proposal.
- 6.5 Conversely, the proposal by Shaftesbury Town Council is considered to have more awareness of operational alternatives and provides a better demonstration of community group interest, providing greater certainty that the proposal will be successful.
- 6.6 The conclusion of the assessment is that funding is awarded to Shaftesbury Town Council. Before any funding or land is released to the town council, the following conditions in paragraphs 6.7 - 6.15 are addressed. These conditions could equally apply to Mampitts Green Community Land Trust CIO if Cabinet were minded to award funding to the Community Land Trust.
- 6.7 **Timescale Conditions** – (1) to provide all the additional information required though condition within 6 months of the Cabinet decision. (2) To commence work on-site no later than 12 months from the date of Cabinet decision, subject to land transfer. Failure to meet this condition would require the funding offer to be revisited by Dorset Council.
- 6.8 **Operating Plan Condition** - a detailed long term operating plan must be submitted and accepted by Dorset Council.
- 6.9 **Project Costings and Project Delivery Plan Condition** - final project costings and a copy of contract(s) with builders/contractors must be submitted to Dorset Council before they are signed. In addition, a updated project delivery plan with realistic and achievable timeframes is submitted.
- 6.10 **Ringfenced Bank Account for Community Hall Condition** - evidence must be provided to Dorset Council to demonstrate that a dedicated bank account for all community hall related financial activity has been set up to

manage the project. In addition, copies of annual financial updates and auditors reports will be required where undertaken. This is to ensure that funds received are managed and monitored appropriately.

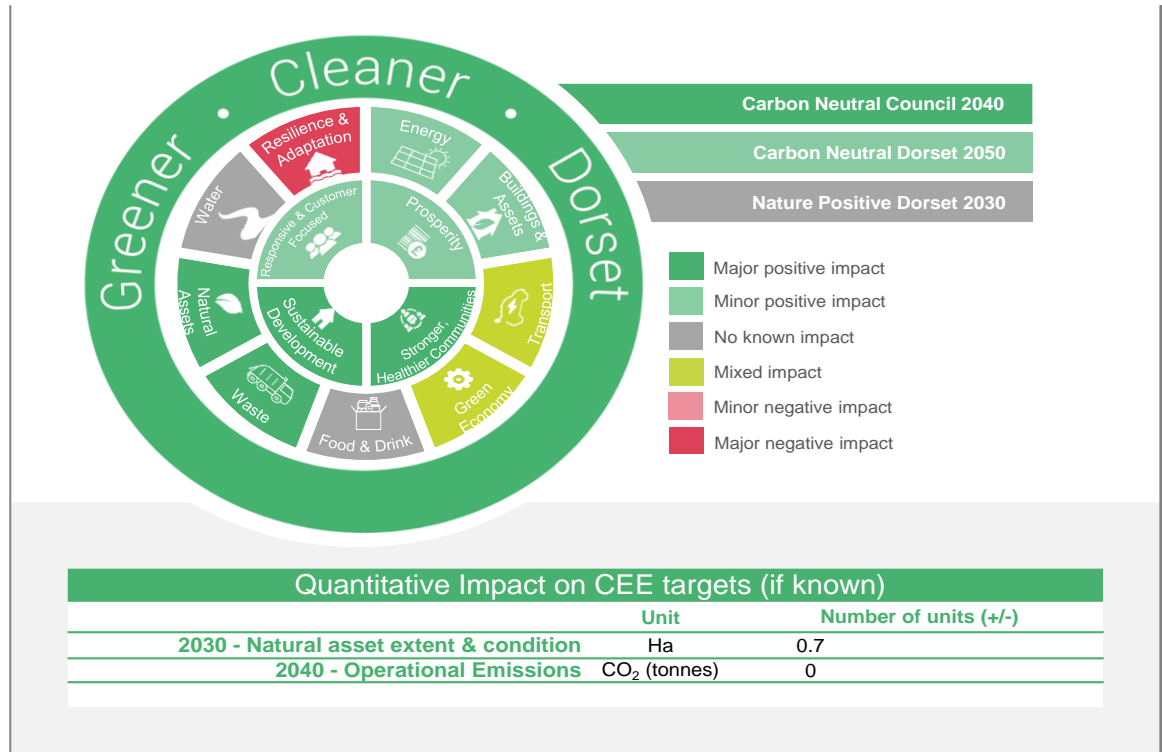
- 6.11 **External Funding Grant Applications Condition** - evidence of grant applications for external funding and/or evidence of research and contact with potential grant funding organisations must be submitted to Dorset Council.
- 6.12 **Evidence of Engagement with Community Groups** – evidence that the awarded party has engaged with local community groups to find out the level of interest in using the community hall on a regular basis. For example, a list of groups who have been contacted with copies of responses.
- 6.13 **Contingency Budget Condition** - the contingency budget element of the S106 funds will remain with Dorset Council and will only be transferred if required and only the amount required at the time. Evidence of the increase in costs above the initial estimate will also be required before additional funds will be transferred.
- 6.14 **Land ownership condition** – Dorset Council will own the land while the proposal is built and will continue to own the land for a period of 3 years following the date of project completion in order to monitor operational performance. Should the operational performance reach a level to be agreed by Dorset Council, ownership of the land will be transferred to the awarded party.
- 6.15 These conditions will form part of a bespoke deed or equivalent agreement between Dorset Council and the awarded party to be agreed prior to the release of funding. The deed will be consistent with the requirements of the approved *s106 protocol for planning obligation funding allocations*. This will ensure further safeguards and necessary assurances are put in place for stages involving the release of land or funding, adding confidence to the successful achievability of the project.

7. **Financial Implications**

- 7.1 The funding implications are covered within the body of this report. The budget set out in the recommendation includes uplift following weighted interest which was applied at the end of the 2023/24 financial year.

8. **Natural Environment, Climate & Ecology Implications**

8.1 It is considered that that long term effects both proposals are positive in terms of impact on the environment. The construction materials and inclusion of renewable energy technology will reduce the requirement of external power sources. The Dorset Council Natural Environment Team is satisfied that hard and soft landscape proposals on both schemes will result in biodiversity net gain on site.



9. Well-being and Health Implications

9.1 Both proposals will provide new community facilities to support healthy activity and lifestyle. These facilities will help meet the needs of wide range of people of all ages and abilities.

10. Other Implications

10.1 Proceeding with this project will be reliant upon the transfer of land from Persimmon Homes to Dorset Council initially.

11. Risk Assessment

11.1 **HAVING CONSIDERED:** the risks associated with this decision; the level of risk has been identified as:

Current Risk: Medium

Residual Risk: Medium/Low

12. Equalities Impact Assessment

- 12.1 There are no equalities implications arising from this report. The proposals set out in the Cabinet report conform to the requirements of planning policy providing a range of community facilities which meet the requirements for which associated planning obligations were established in 2007.

13. Appendices

Appendix A – Site plans

Appendix B – Application Appraisals

Appendix C - Accessible Impact Assessment & Table of Recommendations

14. Background Papers

Planning application reference P/FUL/2023/05314

Planning application reference P/FUL/2024/01856

Maltings s106 Legal Agreement – 2007

[s106 protocol for planning obligation funding allocations – 18th May 2021](#)

15. Report Sign Off

- 15.1 This report has been through the internal report clearance process and has been signed off by the Director for Legal and Democratic (Monitoring Officer), the Executive Director for Corporate Development (Section 151 Officer) and the appropriate Portfolio Holder(s)