

**REPORT TO: STRATEGY & RESOURCES COMMITTEE**  
Date: 5 August 2019  
**TOPIC: APPROVAL & RELEASE OF S106 FUNDS - BMX TRACK, BRAUNTON**  
**REPORT BY: PROJECT, PROCUREMENT & OPEN SPACE OFFICER**

## 1 INTRODUCTION

1.1 Pursuant to a report presented to the former Executive, this report provides an update on Braunton BMX track progress and also seeks a variation to a current resolution and a further decision regarding allocation of funds.

## 2 RECOMMENDATIONS

- 2.1 That Strategy & Resources allocates a further £17,648.49 towards creation of Braunton BMX track, landscaping, fencing and any further ancillary works.
- 2.2 Subject to approval of 2.1 above, the Strategy & Resources committee recommends Council vary the capital programme by £17,648.49 and that funds be released.
- 2.3 That Strategy & Resources approve taking a 999 year lease of the land at Velator from the Trustees of Braunton BMX, in the event the former owner does not provide consent for the freehold transfer.

## 3 REASONS FOR RECOMMENDATIONS

- 3.1 To allocate funds in line with the requirements within the S106 agreement.
- 3.2 To create, protect and enhance public open space.

## 4 REPORT

- 4.1 In March 2019, the former Executive resolved to accept the freehold transfer of land at Velator, to the Council, at nil value, to create a BMX track.
- 4.2 Since March, Officers have prepared a specification and tendered the design and construction of the BMX track, with tenders being returned in June.
- 4.3 Simultaneously, legal services have been instructed to undertake the legal transfer. During this process, a restriction on title was found, which states no

transfer or assent can be registered without the consent of the former landowner (the owner prior to the BMX Trustees).

4.4 We have made attempt to contact the previous owner in writing, via email and also by recorded delivery with no response being received to date. Therefore, an alternative route to secure the ownership, without requiring consent to register, has been identified by way of taking a 999 year lease and this report seeks that approval.

4.5 In addition to the procurement and conveyancing process, a further £17,648.49 of S106 public open space funds has been received specifically for this project, as identified in paragraph 5.1 of this report. This contribution will provide boundary fencing and any additional works required as part of the delivery of the project. Any further works will be procured in compliance with the Council's Contract Procure Rules.

## 5 RESOURCE IMPLICATIONS

5.1 A further £17,648.49 be allocated from the source below

Development Description	Application Number	Amount
Land at Chivenor Cross	65004	£17,648.49
	Total	£17,648.49

## 6 EQUALITIES ASSESSMENT

6.1 None identified.

## 7 CONSTITUTIONAL CONTEXT

Article or Appendix and paragraph	Referred or delegated power?
Part 3. Annexe 1. 1(d)	Delegated

## 8 STATEMENT OF CONFIDENTIALITY

8.1 This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

## 9 BACKGROUND PAPERS

9.1 The background papers are available for inspection and kept by the author of the report.

## 10 STATEMENT OF INTERNAL ADVICE

10.1 The author (below) confirms that advice has been taken from all appropriate Councillors and Officers.

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Author: L. Wheeler

Date: 19 June 2019

Reference: I:\Projects\Open Space & S106\Reports\Strategy & Resources\S & R Report August 2019 BMX.docx