

## Rother District Council

Report to	-	Cabinet
Date	-	30 September 2019
Report of the	-	Executive Director
Subject	-	Combe Valley Countryside Park Community Interest Company

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### **Recommendation:** It is **RESOLVED:** That:

- 1) the Combe Valley Countryside Park Community Interest Company be paid the sum of £61,145.10 to meet the amount outstanding to Groundwork South;
  - 2) the Combe Valley Countryside Park Community Interest Company be assured that Rother District Council will pay on receipt the balance of the s106 legal agreement financial contribution of £126,055 and indexation and inflation receivable from the first phase of the Bovis Homes Ltd development towards the improvement of the Combe Valley Countryside Park, subject to the engrossment of an Indemnity Agreement; and
  - 3) no further monies will be paid until a plan has been submitted and approved by the Council.
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**Head of Service: Tim Hickling**  
**Lead Cabinet Member: Councillor Brewerton**

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### **Introduction**

1. Rother District Council (RDC) has been approached by the Combe Valley Countryside Park Community Interest Company (CVCP CIC) to assist in formalising their financial arrangement with Groundworks South by providing a guarantee to pass the first phase of the Bovis Homes Ltd contributions from RDC to the CVCP CIC.
2. The CVCP CIC was set up to administer the Countryside Park in 2015 and it was anticipated that this would be funded largely by financial contributions to RDC payable under s106 of the Town and Country Planning Act 1990 by the developers of the allocated land North East of Bexhill. However, the development has not progressed at the pace expected and this has left the CVCP CIC in financial difficulties. The next payment by the developers will be made on the occupation of 25% off the dwellings of the first phase of the development permitted by outline planning permission (RR/2015/1760P) on 24 March 2016.
3. It should be noted that the contributions are to be used *'towards the improvement of the Combe Valley Countryside Park'* but does not necessarily have to be provided to the CVCP CIC. The CVCP CIC has advised that the financial situation of the CIC is such that, without certainty that the contribution will be paid to the CVCP CIC, they cannot continue to operate. However, the

CVCP CIC was established by East Sussex County Council (ESCC), Hastings Borough Council (HBC) and Rother District Council (RDC), businesses, landowners and community stakeholders as the vehicle to direct the money for the delivery of the Countryside Park infrastructure.

## **Background**

4. The Countryside Park covers an area of 600 hectares across Rother District and Hastings Borough. It includes a Site of Special Scientific Interest (SSSI) around the Combe Haven and reed beds, which are a Local Wildlife Site. The southern part includes the now defunct landfill site, other waste and water facilities and Bulverhythe playing fields.
5. The Countryside Park was first mooted in 1993 as part of the North Bexhill Strategic Framework. It emanated from the 'strategic gap' planning policies so as to provide a greenspace between Hastings and Bexhill. In 2008 RDC, HBC and ESCC, established a steering group represented by Councillors from all three authorities and each providing equal funding contributions towards its administration.
6. From April 2014 ESCC and RDC, and from April 2015 HBC, withdrew their annual funding contributions and the CVCP CIC have been reliant on s106 money and other grants they have secured.
7. The Countryside Park is a long term project which not only reclaims the landfill site into a covered green space but also addresses the deficiency in green space for the towns of Hastings and Bexhill and surrounding rural villages. The Park serves an immediate population of 22,500 people and an overall urban population of 130,000 persons. It provides an opportunity for active recreation, walking, cycling, equestrianism, bird watching, nature studies, etc; new and improved public access routes will enable the whole community to gain safe and controlled access to the Countryside Park. It is envisaged that these will help to generate new commercial opportunities for local landowners and businesses to enhance the local economy.

## **Community Interest Group**

8. In 2015, a Community Interest Company was formed. It has a board of directors including representatives of the three Councils, local businesses, landowners and stakeholders, including the Friends of Combe Valley. The CVCP CIC oversees the strategic direction of the Park and is currently focusing on promoting the Park and encouraging and improving access. The CVCP CIC aims *“to create and manage a high quality sustainable, attractive, accessible and multifunctional landscape rich in wildlife to serve the recreational, economic and health and well-being needs of residents and visitors”*.
9. To help deliver these aims the Board appointed a company 'Groundwork South' to assist in the administration and co-ordination of projects within the Countryside Park.

## Financial Contributions

10. Initially, the three Councils each contributed c£18,000 per annum to administer s106 money of £400,000, payable by Southern Water, as a requirement of their waste water treatment works planning permission. Along with a s106 financial contribution from Biffa of £45,000, these funds have been spent on making the park accessible through the establishment of footpaths, bridges signage, etc. These contributions have now been spent in the timeframe required by the agreements. The CIC is now reliant on future funding obtained through s106 agreements or grant funding they secure.
11. The Countryside Park is intrinsically linked to the North East Bexhill development allocation and is reliant on this funding to continue delivering the park's projects. As such, a contribution towards the Countryside Park was identified as a requirement for the development of the North-East Bexhill allocations in Local Plan (2006) Policies BX2 and BX3. On the basis of this policy, obligations to pay contributions towards the improvement of the Combe Valley Countryside Park were secured by s106 legal agreements attached to planning permissions relating to the development of land at North-East Bexhill by both BDW Trading Ltd [Barratt Homes] (planning permission RR/2014/1223/P) and Bovis Homes Ltd (planning permission RR/2015/1760/P).
12. Barratt Homes paid a contribution of £101,088 inclusive of interest and indexation to RDC and RDC transferred the contribution to the CVCP CIC through an Indemnity Agreement in August 2017.
13. Bovis Homes commenced construction of the first phase of their development in February 2019. A contribution of £187,200, exclusive of interest and indexation, towards the improvement of the Combe Valley Countryside Park will be payable to RDC on occupation of 25% of the first phase (occupation of 50 out of 200 dwellings within this phase). Bovis Homes has indicated that 25% occupation will be reached in 12-18 months from the publication of this report; however, this is subject to the sales rate they achieve. There is therefore no certainty as to when 25% occupation will be reached.
14. The outline planning permission (RR/2015/1760/P) to which the financial contribution relates, permits the development in seven phases, with a range of obligations, including financial contributions, secured through a s106 legal agreement between RDC, ESCC, Trinity College, Cambridge (the landowner) and Bovis Homes Ltd (the developer). The '*Countryside Park Contribution*' totals £982,800, exclusive of indexation and interest and is payable on occupation of 25% of the dwellings of each phase at a rate of £936/dwelling. When permitted (April 2016), it was anticipated that the development would be constructed over 8 years. Reserved Matters approval was granted for the first phase (RR/2016/3245/P) of 200 dwellings on 21 November 2017 and construction commenced in February 2019. Reserved matters applications have not been submitted for any future phases. Therefore, the future income streams remain uncertain.

## Community Interest Company – Financial Position

15. Currently the CVCP CIC has no money, but Groundwork South has continued to assist with administering them despite being owed £61,145.10 (including

VAT) in fees. Groundwork South has continued their support in 'good faith', on the basis that the CVCP CIC will receive the s106 money and settle the accruing debt.

16. RDC has been approached by the CVCP CIC, who have requested the assistance of RDC to pay the monies currently owed to Groundwork South (Appendix 1), which in turn RDC would recover from the s106 payable by the developer (Bovis Homes Ltd) to RDC on the occupation of 25% of the dwelling of the first phase.

## **Conclusion**

17. The Combe Valley Countryside Park covers an area of 600 hectares within Rother District and Hastings Borough and will play a key role in providing amenities and a recreational resource for the new North East Bexhill residents.
18. Obligations to pay contributions towards the improvement of the Combe Valley Countryside Park were secured by s106 legal agreements attached to the planning permission relating to the development of land at North-East Bexhill by Bovis Homes Ltd (planning permission RR/2015/1760/P).
19. The CVCP CIC was set up by the three local authorities to oversee the strategic direction of the Park and the CVCP CIC appointed Groundwork South to administer and advise the CVCP CIC. In order to retain the services of Groundwork South as managing agent and ensure the continuation of the CVCP CIC's functions, the CVCP CIC has requested confirmation that the first phase of the Bovis Homes s106 contribution will be paid to the CVCP CIC by Rother DC on receipt (likely 12-18 months' time).
20. Given the strategic importance of the Park and the CVCP CIC's work to date in progressing the project, it is recommended that RDC advance £61,145.10 to CVCP CIC now to settle their debt with Groundwork south and confirm that RDC will transfer the balance of the 'Countryside Park Contribution' of £126,055, plus of interest and indexation relating to the first phase of the Bovis development to the CVCP CIC on receipt, subject to the engrossment of an Indemnity Agreement. It is also recommended that no further payments of s106 monies are paid until a plan has been submitted and approved by the Council. This plan will need to address how the CIC will in future not get into debt.

Dr Anthony Leonard  
Executive Director

## **Risk Assessment Statement**

It is not certain when, and if, RDC will receive the Countryside Park Contribution from Bovis Homes Ltd. While it is a requirement of the s106 legal agreement attached to outline planning permission RR/2015/1760/P, it is not payable until 50 dwellings within the development currently under construction by Bovis Homes Ltd are occupied. However, given that development has commenced, it is likely that the contribution will be paid, but the timing of the payment is uncertain.