

Bolsover District Council

Planning Committee

1st August 2018

<u>Update: Section 106 Agreements</u>

Report of the Planning Manager (Development Control)

Purpose of the Report

- To ensure that the District Council has a robust procedure for recording and monitoring Section 106 obligations.

Report Details

1. Background

- 1.1 In September 2017, members of the Planning Committee noted the new procedures for recording and monitoring Section 106 obligations proposed by officers. At the same meeting, members agreed with an officer recommendation that compliance with planning obligations in s.106 agreements should be reported to the Planning Committee on a quarterly basis. This report is the quarterly status report and is intended to give members the opportunity to assess the effectiveness of the updated procedures as well as receive up-to-date information on ongoing cases where planning obligations are involved.
- 1.2 It was agreed that it is important to provide this information to members for two key reasons: (i) if obligations required to make a development acceptable in planning terms aren't properly discharged then there is a risk of harm to the Council's reputation and public confidence in the Council's decision making; and (ii) there are strict criteria on how and when Section 106 contributions received by the District Council should be spent; if these criteria aren't met then there is a risk the proposed contribution will have to be returned to the developer and the associated infrastructure will not be provided.
- 1.3 Consequently, it is not only important that the District Council has a robust procedure for recording and monitoring Section 106 obligations, it is also important that there is appropriate oversight of how effectively these procedures work in practice: hence the purpose of this report.

2. Current Position

- 2.1 The current financial spreadsheet is attached as Appendix A. The spreadsheet shows that there is currently a total balance on hand for all S106 contributions of £1,017,282.

- 2.2 There is only one case where the deadline for spending S106 money received is approaching the 5 year spending deadline. This is at line 36 (Vale Croft, Carr Vale Bolsover). In this case the Council has only 2 months remaining to spend the outstanding balance of the S106 contribution. This is £8,067 after which time it will need to be returned to the developer if not spent. The account is for upgrading neighbourhood open space facilities within Old Bolsover Parish. The Council's Leisure Officer is aware of the urgency and has assured the S106 monitoring group that he is already in the process of appointing a contractor and that the remaining money in this account will be spent before the deadline. The Strategic Directors are also aware of the situation.
- 2.3 There are no other areas of concern in respects of spending deadlines for payments received and the deadlines for expenditure.
- 2.4 No new S106 payments have been received this quarter.
- 2.5 In terms of current development sites, there are a number of sites where development has been commenced and officers are monitoring progress against S106 trigger points. The current monitoring list includes:-
- The Edge, Clowne (12/00529). Permission for 149 dwellings now completed. £100,000 maintenance sum payable to BDC when Public Open Space adopted following resolution of snagging issues. Several still need to be resolved.
 - Skinner Street Creswell (15/00368/FUL) permission for 82 dwellings. Now at 4 occupations. Obligations not yet triggered. The only requirements are for a School Link and footpath link to be delivered by 50th occupation.
 - Hawk Brook Close (Formerly Meridian Close), Bolsover (17/00314/FUL). Permission for 35 dwellings. Development has recently commenced and 3 units have been sold. The Applicant has already paid S106 sums due in advance of triggers. Also 3 affordable houses yet to be provided – trigger is 16 occupations.
 - Mooracre Lane Bolsover (17/00234/FUL). Permission for 212 dwellings. Just started on site in April 2018 (although pre-start conditions are not yet all discharged so not yet formally commenced). Various S106 obligations with various phased triggers. Traffic monitoring sum due to DCC on commencement. Otherwise the first trigger due for BDC payments is at 60 occupations which will not be reached for some time yet.
 - Brookvale Shirebrook Keepmoat (14/00594) permission for first phase 153 dwellings. 136 occupations as at July 2018. Contribution of £879,000 towards Highways/GP surgery/Bus Service has been received by BDC. £310,000 of this amount now transferred to DCC for Highway improvements. Remaining money to be split between CCG (now complicated by multiple expansion options), Bus Service incentive and further highway works.
 - Station Road, Langwith Junction (16/00530/FUL). Permission for 68 dwellings. 23 reservations so far and 1st occupation expected in September.2018. Trigger for payment is 34 dwellings occupied so not yet reached. Sums eventually due:- £52,000 informal - to upgrade Langwith Rec

£16,000 health – GP practice at Langwith

- Mansfield Road Tibshelf (13/00182/OUT). Permission for 170 dwellings. At 70 occupations as at July 2018. First trigger now reached for payment of the first phase education payments. This was received by DCC in March 2018. Next trigger is 85 occupations for first stage payments for:-
Formal sport and recreation in the parish 50% of £146,880 = 73,440 plus inflation;
Health, Staffa Tibshelf Surgery 50% of £60,000 = 30,000 plus inflation;
Also informal play equipment provision on site at 90 occupations to max value of £123,590 plus maintenance if adopted.
- Doe Hill Lane Tibshelf. Permission for 57 dwellings (15/00438/FUL). 6 dwellings occupied by April 2018 (last reported figure). First Trigger is 28 dwellings- unlikely to have been reached yet. Obligations include:-
Informal POS £765/dwelling plus £27,010 maintenance at 28 occupations.
Education £4857/dwelling at 75% occupation.
Art £10,000 at 75% occupation.
Affordable – none if delivery targets met.
Other – ecology and local employment.

3 Consultation and Equality Impact

- 3.1 There has been no public consultation in respect of this report, and there are no negative equality impacts identified. Officers consider that increasing member oversight of compliance with s.106 legal agreements should promote **equality** of opportunity for local residents through ensuring obligations are met.

4 Alternative Options and Reasons for Rejection

- 4.1 Reporting the status of current s.106 legal agreements to Planning Committee address recommendations made in the 2016 audit report and has been agreed by members of the Planning Committee. Therefore, officers have not considered alternative options.

5 Implications

Finance and Risk Implications

- 5.1 If obligations required to make a development acceptable in planning terms aren't properly discharged then there is a risk of harm to the Council's reputation and public confidence in the Council's decision making. If financial contributions are not spent within a defined period then the money has to be returned to the developer and normally returned with interest. Therefore, there are finance and risk implications if procedures for recording and monitoring s.106 legal agreements are not sufficiently robust.

Legal Implications including Data Protection

- 5.2 There are no data protection implications insofar as s.106 legal agreements are part of the statutory planning register and are therefore public documents. S.106 of the

1990 Act provides the legal framework for the acceptance and discharge of s.106 legal obligations and the procedure notes address the key legislative provisions of this section of the 1990 Act.

Human Resources Implications

5.3 None.

6. Recommendations

6.1 That the Planning Committee notes this report.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed	N/A
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	All

10 Document Information

Appendix No	Title
1	Financial Spreadsheet
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
n/a	
Report Author	Contact Number
Steve Phillipson	Ext 2248