

Bolsover District Council

Meeting of the Planning Committee on 6th September 2023

Report of the Interim Head of Planning Policy

QUARTERLY UPDATE ON SECTION 106 AGREEMENT MONITORING

Classification	This report is Public
Report By	Julie-Anne Middleditch Principle Planning Policy Officer
Contact Details	As above

PURPOSE / SUMMARY OF REPORT

- To provide a progress report in respect of the monitoring of Section 106 Agreements in order to give members the opportunity to assess the effectiveness of the Council's monitoring procedures.

REPORT DETAILS

1. Background

- 1.1 Section 106 agreements are a type of legal agreement between the Council and landowners / developers that are often completed alongside applications for planning permission for major developments. They are needed to deal with the additional pressures on infrastructure that result from the new development. They are only required where the effects of the development would otherwise be unacceptable in planning terms and where they cannot be dealt with by conditions of the planning permission.
- 1.2 As can be observed, implementation of these Section 106 Agreements in a timely manner alongside the build-out of the approved developments is important as failure to achieve this will mean important infrastructure improvements lag behind the impact of the development.
- 1.3 Furthermore, if the Council fails to spend monies provided through the Section 106 Agreement within a set period, often within 5-years of entering into the agreement, there is a risk to the Council that the developer would be entitled to request the money back. This risk is thankfully relatively low but it is one that the Council must take seriously due to both the negative impact on the affected local community and the consequential reputational impact on the Council.

- 1.4 To manage and mitigate this serious risk the Council has approved a procedure for recording and monitoring Section 106 Agreements. The most recent version of this was approved by Planning Committee in September 2022 and it governs the work of the Council's cross-departmental Section 106 Monitoring Group.
- 1.5 Following the quarterly Section 106 Monitoring Group meeting, officers provide a progress report to the Planning Committee in respect of the monitoring of Section 106 Agreements. In line with the approved Procedure this progress report is required to highlight any sums at risk of clawback that need spending within 24 months, as well as a summary of the sums being held by infrastructure type that are in years three, four and five. Accordingly, this report is the quarterly progress report following the meeting of the Section 106 Monitoring Group held on 7th August 2023.

2. Details of Proposal or Information

- 2.1 The Council's Section 106 Agreement Monitoring Procedure requires sums within 24 months of their deadline to be highlighted for Member's attention.
- 2.2 Members will recall that in the report provided in June, eight sums were identified as being within their 24-month deadline as at 17th April 2023.
- 2.3 As of the Monitoring Group meeting on 7th August 2023 there are eight sums within their 24-month deadlines (details below).

Spend Date within 12 months (by 6th August 2024)

Action Plan	Finance Spreadsheet	Site	Infrastructure and amount	Amount remaining	Date
Item 6	Line 84	Spa Croft Tibshelf	Art (£10,176.20)	£10,176.20	22.03.24
Item 9	Line 85	Rosewood Lodge Farm South Normanton	Outdoor Sport (£34,584.85)	£34,584.85	21.05.24
Item 10	Line 85	Rosewood Lodge Farm South Normanton	Health (£80,141.59)	£80,141.59	21.05.24

Spend Date within 2 years (by 6th August 2025)

Action Plan	Finance Spreadsheet	Site	Infrastructure and amount	Amount remaining	Date
17	Line 83	Mansfield Road, Tibshelf	Outdoor Sport (£164,153)	£164,153	20.12.24
19	Line 89	Oxcroft Lane, Bolsover	Outdoor Sport (£125,336.69)	£125,336.69	10.03.25
20	Line 87	Station Road, Langwith Junction	Open Space (£52,000)	£64.23	30.01.25
21	Line 91	High Ash Farm, Clowne	Open Space (£10,184.39)	£10,184.39	19.03.25
22	Line 88	Station Road, Langwith Junction	Health (£16,000)	£16,000	30.01.25

- 2.4 In terms of progress since the quarterly update report presented to June's meeting of the Planning Committee, Members will note that the £3,360 sum for Outdoor Sport from the Meridian Close development in Bolsover town has now been spent and thus no longer features on the tables above.
- 2.5 In addition, there has been significant progress with regard to the £52,000 sum for Open Space from the Station Road development in Langwith Junction, with the majority of the sum now spent with plans for the remaining £64.23 to be put towards park benches. Other than this, the amounts remaining are the same as reported to June's meeting.
- 2.6 Finally, one new item has been added to the 12 months to 24 months spending threshold window which was excluded in error from the quarterly update report in June, namely an allocation for Health from the Station Road development in Langwith Junction.
- 2.7 The updates for the above items as recorded at the Section 106 Monitoring Group are set out below for Member's information.

(CADO = Community Arts Development Officer; LSPO = Leisure Special Projects Officer; PPPO = Principal Planning Policy Officer; IHPP = Interim Head of Planning

Policy; CLE = Chartered Legal Executive; PPDM = Principal Planner Development Management)

Item	Development site, relevant S106 sum and spend by date	Responsible officer
6	<p>Spa Croft, Tibshelf – Art £10,176.20 (22.03.24)</p> <p><u>Action from previous quarterly meeting</u> CLE to look at original agreement as starting point and send proforma for seeking to extend the S106 spend date to CADO.</p> <p><u>Updates between and at meeting</u> 2.8.23 CADO emailed PPPO to advise that the relevant Community Arts Group has created an initial sketch and all groups / councillors / officer involved plan to meet in September to outline next steps and timeframe going forward. To facilitate this timeframe, discussions have taken place with the developer and the CADO has advised that they are in agreement with the proposed extension, subject to their legal fees being paid by the Council's Leisure Services. The CLE is currently preparing the S106 extension documents for formal agreement.</p> <p><u>Agreed Action</u> CADO to provide monthly updates on progress to PPPO.</p>	<p>CADO</p> <p>CLE/CADO</p> <p>CADO</p> <p>CADO/PPPO</p>
9	<p>Rosewood Lodge Farm – Outdoor Sport £34,584.85 (21.05.25)</p> <p><u>Action from previous quarterly meeting</u> LSPO to provide monthly updates on progress to PPPO.</p> <p><u>Updates between and at meeting</u> 31.07.23 LSPO emailed PPPO to advise that additional drainage works to the value of £3,910 have been carried out on Common Meadows Football pitch. A contribution of £3,210 has been paid to the cost of crowd barriers for the football pitch at Common Meadows (a league requirement). The remainder of the allocation is to be a contribution to the cost of a canopy at Market Street Recreation Ground as an improvement / enhancement of a recreational space used for outdoor sports.</p>	<p>LSPO</p> <p>LSPO/PPPO</p> <p>LSPO</p>

	<p>The remaining monies, in the region of £24,000 are thereby likely to be spent. However, there are ongoing issues in respect of vandalism, with the structure that was recently erected needing to be replaced. The Parish Council has requested the S106 contribution from the District Council.</p> <p><u>Action going forward</u> LSPO to contact Legal Services for advice on impact of vandalism on contractual positions.</p>	LSPO/CLE
10	<p>Rosewood Lodge Farm – Health £80,141.59 (21.05.24)</p> <p><u>Action from previous quarterly meeting</u> IHPP to provide update at next meeting.</p> <p><u>Updates between and at meeting</u> IHPP advised at the meeting that the Integrated Care Board (ICB) contacted them about this allocation in October 2022 to advise that they were formulating a detailed plan to provide additional health facilities in the vicinity of the development. The IHPP added that they have been chased routinely for updates since the spend for this item came within the 2-year spending threshold and that they have been notified of reaching the 1-year spending threshold. A request for an update prior to the meeting of Planning Committee has been made.</p> <p><u>Action going forward</u> IHPP / PPPO to continue to chase progress from the ICB.</p>	<p>IHPP</p> <p>IHPP</p> <p>IHPP</p> <p>IHPP/PPPO</p>
17	<p>Mansfield Road, Tibshelf – Outdoor Sport £164,153 (20.12.24)</p> <p><u>Action from previous quarterly meeting</u> LSPO to provide monthly updates on progress to PPPO.</p> <p><u>Updates between and at meeting</u> 31.7.23 LSPO emailed PPPO to advise that there hasn't been significant progress with the 3G FTP proposal for Shetland Road and there is an issue with proving ownership of the site (the land is unregistered).</p> <p>Looking at potential alternative projects. LSPO has been invited to attend the Parish Council meeting on 8 August to discuss. One option on the table is a multi-use games area (MUGA) (also at Shetland</p>	<p>LSPO</p> <p>LSPO/PPPO</p> <p>LSPO</p>

	<p>Road) as Tibshelf is one of the few settlements without one.</p> <p><u>Action going forward</u> LSPO to provide monthly updates on progress to PPPO.</p>	LSPO/PPPO
19	<p>Oxcroft Lane, Bolsover – Outdoor Sport £125,336.69 (10.03.25)</p> <p><u>Action from Previous Quarterly Meeting</u> LSPO to provide update at next meeting.</p> <p><u>Updates between and at meeting</u> 1.8.23 LSPO emailed PPPO to advise that the funds are to be used as a contribution to new skatepark at Hornscroft Park, which is currently in development in conjunction with Old Bolsover Town Council.</p> <p><u>Action going forward</u> LSPO to provide monthly updates on progress to PPPO.</p>	<p>LSPO</p> <p>LSPO</p> <p>LSPO</p> <p>LSPO/PPPO</p>
20	<p>Station Road, Langwith Junction – Open Space £52,000 (30.01.25)</p> <p><u>Action from Previous Quarterly Meeting</u> LSPO to provide update at next meeting.</p> <p><u>Updates between and at meeting</u> 1.8.23 LSPO emailed PPPO to advise that new play area installed at Langwith Junction Recreation Ground (opened on 21 July 2023), leaving a residual amount of £64.23 outstanding. This left-over sum to be used towards benches.</p> <p><u>Action going forward</u> LSPO to provide update at next meeting.</p>	<p>LSPO</p> <p>LSPO</p> <p>LSPO</p> <p>LSPO</p>
21	<p>High Ash Farm, Clowne – Open Space £10,184.39 (19.03.25)</p> <p><u>Action from Previous Quarterly Meeting</u> LSPO to provide update at the next meeting.</p> <p><u>Updates between and at meeting</u> 1.8.23 LSPO emailed PPPO to advise that they have a meeting with Clowne Parish Council on 9th August to discuss potential projects. Looking at land in front of Ashgate Hospice premises.</p>	<p>LSPO</p> <p>LSPO</p> <p>LSPO</p>

2.10 The spend profiles for Art and Biodiversity remain the same as for the previous financial quarter. There are new contributions against Outdoor Sport from the development at locations throughout the District including South Normanton, Pinxton and Bolsover. Elsewhere the sums have moved into different years with the passage of time.

3. Reasons for Recommendation

3.1 The implementation of Section 106 Agreements in a timely manner is essential to achieving sustainable growth across the District and protecting the quality of life for the District's residents and businesses.

3.2 As a result, it is important that Members receive information about the progress being made by the various Council departments to deliver Section 106 Agreements and to give Members the opportunity to assess the effectiveness of the monitoring procedures.

3.3 It is recommended that Members note the contents of the latest monitoring report and highlight any concerns about the implementation of the Section 106 Agreements listed.

4 Alternative Options and Reasons for Rejection

4.1 Providing a progress report in respect of the monitoring of Section 106 Agreements to Planning Committee addresses recommendations made in recent Audit reports and recommendations of Members of the Planning Committee as set out in the Council's procedure for recording and monitoring Section 106 Agreements. Therefore, officers have not considered alternative options.

RECOMMENDATION(S)

That Planning Committee note the contents of the report and highlight any concerns about the implementation of the Section 106 Agreements listed.

Approved by Council McGregor, Portfolio Holder – Corporate Governance

IMPLICATIONS:

Finance and Risk: Yes No

Details: 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 taking. 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 Section 106 Agreements are not sufficiently robust.

On behalf of the Section 151 Officer

Legal (including Data Protection):

Yes

No

Details: There are no data protection implications insofar as Section 106 Agreements are part of the statutory planning register and are therefore public documents. Section 106 of the Town and Country Planning Act 1990 provides the legal framework for the acceptance and discharge of the Section 106 Agreements and the Council's approved procedure addresses the key legislative provisions of this section of the 1990 Act.

On behalf of the Solicitor to the Council

Environment:

Yes

No

Please identify (if applicable) how this proposal / report will help the Authority meet its carbon neutral target or enhance the environment.

Details: Section 106 Agreements cover a range of policy and infrastructure requirements, albeit they do not specifically contribute to this subject.

Staffing:

Yes

No

Details: There are no human resources implications arising from this report.

On behalf of the Head of Paid Service

DECISION INFORMATION

<p>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:</p> <p>Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p>Is the decision subject to Call-In? <i>(Only Key Decisions are subject to Call-In)</i></p>	No

<p>District Wards Significantly Affected</p>	All
<p>Consultation: Leader / Deputy Leader <input checked="" type="checkbox"/> Executive <input type="checkbox"/> SLT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></p>	No

<p>Links to Council Ambition: Customers, Economy and Environment.</p>
<ul style="list-style-type: none"> • Enabling housing growth; • Developing attractive neighbourhoods; • Increasing customers satisfaction with our services.

DOCUMENT INFORMATION	
Appendix No	Title
Background Papers	
<i>(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 Executive you must provide copies of the background papers).</i>	