

**Bolsover District Council**

**Meeting of the Planning Committee on 13<sup>th</sup> March 2024**

**Quarterly Update on Section 106 Agreement Monitoring**

**Report of the Portfolio Holder for Corporate Governance**

<b>Classification</b>	This report is Public
<b>Contact Details</b>	Julie-Anne Middleditch Principle Planning Policy Officer

**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.

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**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 18<sup>th</sup> January 2024.

## **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 November, eight sums were identified as being within their 24-month deadline as of 24<sup>th</sup> October 2023.
- 2.3 As of the Monitoring Group meeting on 18<sup>th</sup> January 2024 there are seven sums within their 24-month deadlines (details below).

### **Spend Date within 12 months (by 18<sup>th</sup> January 2024)**

<b>Action Plan</b>	<b>Finance Spreadsheet</b>	<b>Site</b>	<b>Infrastructure and amount</b>	<b>Amount remaining</b>	<b>Date</b>
<b>Item 9</b>	Line 85	Rosewood Lodge Farm South Normanton	Outdoor Sport (£43,548.85)	£20,460.85 <b>No change</b>	21.05.24
<b>Item 10</b>	Line 85	Rosewood Lodge Farm South Normanton	Health (£80,141.59)	£80,141.59 <b>No change</b>	21.05.24
<b>Item 17</b>	Line 83	Mansfield Road, Tibshelf	Outdoor Sport (£164,153)	£163,003 <b>Reduced</b>	20.12.24

## Spend Date within 2 years (by 18<sup>th</sup> January 2025)

Action Plan	Finance Spreadsheet	Site	Infrastructure and amount	Amount remaining	Date
19	Line 89	Oxcroft Lane , Bolsover	Outdoor Sport (£125,336.69)	£123,614.19 <b>Reduced</b>	10.03.25
20	Line 87	Station Road, Langwith Junction	Open Space (£52,000)	£64.23 <b>Committed</b>	30.01.25
21	Line 91	High Ash Farm, Clowne	Open Space (£10,184.39)	£10,184.39 <b>No change</b>	19.3.25
22	Line 88	Station Road, Langwith Junction	Health (£16,000)	£16,000 <b>No change</b>	30.1.25

- 2.4 Members will note that since the quarterly update report presented to October's meeting of the Planning Committee the Outdoor Sport allocation from Mansfield Road Tibshelf has now come within the 12-month spending threshold. The allocation has however been reduced with the spend of £1,150 towards the cost of a topographic survey.
- 2.5 Since the last Planning Committee there has been further spending against the Outdoor Sport allocation from the development at Oxcroft Lane Bolsover to provide a Skatepark at Hornscroft Park. A further £827.50 has been spent comprising £474 on additional planning fee (uplift from outline to full application) and £353.50 for earthworks modelling. To date a total of £1,722.50 has been spent from this allocation.
- 2.6 At the time of the Monitoring Group meeting in January the residual sum from the Open Space allocation at Station Road Langwith junction was committed. Since the meeting this has been paid. This item is therefore now removed from the Action plan.
- 2.7 Other than this, the amounts remaining are the same as reported to October's meeting. There are no further allocations that have come within the 2-year threshold.
- 2.8 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; PA= Principal Accountant; HOL = Head of Leisure; DMCO = Development Management Case Officer); P&SM = Partnership and Strategy Manager)

Item	Development site, relevant S106 sum and spend by date	Responsible officer
6	<p><b>Rosewood Lodge Farm – Outdoor Sport £34,584.85 (21.05.25)</b></p> <p><u>Action from previous quarterly meeting</u>  Revisit S106 Agreement  Two weekly updates  Further Action under item 3 Finance Monitoring</p> <p><u>Updates since the last meeting</u>  With under 12 months left to spend, the discussion at the last meeting related to the fire damage of the canopy that was to be part funded by the S106 monies. Since that meeting, the Parish Council confirmed their intention to replace the canopy under their insurance. The canopy is to be taken down during 18<sup>th</sup> and 19<sup>th</sup> January and a new canopy will be installed at around the end of February.</p> <p><u>Meeting update</u>  Once the new canopy is installed, the transfer of monies to the Parish Council will be undertaken. The monies will come from this S106 and from remaining monies from Thornhill Drive Sports allocation.</p> <p><u>Agreed Action.</u>  LSPO to confirm to PPPO the amounts of monies from each source.  Item to be removed from Action Plan once payment made to the Parish Council</p>	<p><b>LSPO</b></p> <p>CLE  LSPO/PPPO  LSPO</p> <p>LSPO</p> <p>LSPO</p> <p>PPPO/LSPO</p> <p>ALL</p>
7	<p><b>Rosewood Lodge Farm – Health £80,141.59 (21.05.24)</b></p> <p><u>Action from previous quarterly meeting</u>  Report to the next meeting</p> <p><u>Updates since the last meeting</u>  There is 4 months remaining to the spending deadline. At the last meeting it was reported that the Integrated Care Board had agreed to utilise the allocation from this and the allocation from</p>	<p><b>SDLPPSG&amp;H</b></p> <p>SDLPPSG&amp;H</p> <p>SDLPPSG&amp;H</p>

<p>Thornhill Drive, South Normanton to pay for an internal reconfiguration of the Limes Medical Centre in nearby Alfreton.</p> <p>At the reporting of the previous update to Planning Committee, Members expressed concern that the infrastructure improvements were not within Bolsover District. The Integrated Care Board have since confirmed that the residents of both South Normanton and Pinxton are patients of the Alfreton surgery.</p> <p>The ICB are going to revisit the potential for improvements to the surgery at Pinxton, before submitting the Project Implementation Document.</p> <p><u>Meeting update</u> Written update from SDLPPSG&amp;H about correspondence with the Integrated Care Board (ICB) to investigate the point around whether the improvements to the Limes Medical Centre in Alfreton would satisfactorily provide the capacity needed for South Normanton residents, and whether it would be possible to direct the S106 sums to improvements at the Village Surgery in Pinxton at this late stage.</p> <p>In relation to the first point, data provided by the ICB shows:</p> <ul style="list-style-type: none"> <li>• Limes Medical Centre has 2,136 S Normanton and 231 Pinxton residents registered on its patient list;</li> <li>• Village Surgery in South Normanton has 3,754 S Normanton and 3,238 Pinxton residents registered on its patient list.</li> </ul> <p>This is considered to demonstrate that improvements at the Limes Medical Centre would significantly support the needs of South Normanton residents.</p> <p>Despite this, the ICB advised that they would have a second look at options for the Village Surgery in Pinxton before progressing the Project Implementation Document and submitting this to the Council to draw down the S106 sum.</p> <p><u>Agreed Action.</u> CLE to check the terms of the S106 as a priority and discuss with PPPO.</p>	<p>CLE</p> <p>SDLPPSG&amp;H</p> <p>CLE</p>
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	<p><u>Update.</u> CLE confirmation that the S106 wording is “to provide additional health facilities in the vicinity of the Development as required as a consequence of the Development”. CLE of the view that this is wide enough to cover surrounding areas as necessary.</p> <p>The ICB has confirmed that the potential for improvements to the surgery at Pinxton is not unfortunately possible at this time and so the internal reconfiguration of the Limes Medical Centre to provide additional capacity will need to proceed. On this basis, the Project Implementation Document will shortly be submitted to draw down the funds and get them committed before the spend deadline.</p>	<p>CLE</p> <p>SDLPPSG&amp;H</p>
<p><b>12</b></p>	<p><b>Mansfield Road, Tibshelf – Outdoor Sport £164,153 (20.12.24)</b></p> <p><u>Action from previous quarterly meeting</u> LSPO to provide monthly updates on progress to PPPO.</p> <p><u>Updates since last meeting</u> There has been significant progress by LSPO on this since the last meeting, when LSPO was due to meet with the Parish Council to discuss three potential projects. At that time these were’</p> <ul style="list-style-type: none"> <li>• an extension of the existing pavilion,</li> <li>• pitch improvements, and</li> <li>• the Installation of a multi-use games area (MUGA)</li> </ul> <p>In the time after this meeting the Parish Council broadened the consideration on going out to public consultation. The final project agreed by the Parish Council comprises a number of pieces of play equipment:</p> <ul style="list-style-type: none"> <li>• A Zip wire,</li> <li>• A Small skate park/ramp,</li> <li>• An improved play area for younger children</li> <li>• Youth shelters</li> <li>• An extra basketball/football net facility</li> <li>• A climbing net web</li> <li>• And a path extension, to access the facilities.</li> </ul> <p>LSPO has since met with suppliers and is due to go out to tender by the end of the month.</p>	<p>LSPO</p> <p>LSPO/PPPO</p> <p>LSPO</p>

	<p><u>Meeting update</u> The Parish Council have further extended the works that they wish to be undertaken to include enhancing existing paths and other minor improvements. These works will be put out to tender separately. With progress to date, it is anticipated that the spending of the allocation sum will fall within the spending deadline.</p> <p><u>Agreed Action</u> Monthly updates</p>	<p>LSPO</p> <p>LSPO/PPPO</p>
<b>14</b>	<p><b>Oxcroft Lane, Bolsover – Outdoor Sport £125,336.69 (10.03.25)</b></p> <p><u>Action from previous quarterly meeting</u> LSPO to report to next meeting.</p> <p><u>Updates since last meeting</u> An allocation that will contribute to new skatepark at Hornscroft Park. Since the meeting the planning application has been approved. Work should start on site as anticipated in early 2024.</p> <p><u>Meeting update</u> Archaeological recording required by Derbyshire County Council. Archaeologist will be on site in February. Contractor is lined up for 25<sup>th</sup> March. Construction should be underway or thereabouts by the time of the next Monitoring Group meeting.</p> <p><u>Agreed Action</u> LSPO to report to next meeting.</p>	<p>LSPO</p> <p>LSPO</p> <p>LSPO</p> <p>LSPO</p> <p>LSPO</p>
<b>16</b>	<p><b>High Ash Farm, Clowne – Open Space £10,184.39 (19.03.25)</b></p> <p><u>Action from Previous Quarterly Meeting</u> LSPO to provide monthly updates on progress to PPPO.</p> <p><u>Updates since last meeting</u> Since the last Monitoring group meeting LSPO has had a further meeting with Clowne Parish Council to discuss the area in front of Dominos on North Road. The discussion centred around the possibility of a community consultation, with a request for design ideas. It is planned that this will take place in the next couple of months.</p>	<p>LSPO</p> <p>LSPO/PPPO</p> <p>LSPO</p>

	<p><u>Meeting update</u> LSPO met with the Parish Council in November and discussed a community consultation, possibly a design competition. LSPO to work with the PC in progressing this over the next couple of months.</p> <p><u>Agreed Action</u> Monthly update</p>	<p>LSPO</p> <p>LSPO/PPPO</p>
<b>16</b>	<p><b>High Ash Farm, Clowne – Open Space £10,184.39 (19.03.25)</b></p> <p><u>Action from Previous Quarterly Meeting</u> LSPO to provide monthly updates on progress to PPPO.</p> <p><u>Updates since last meeting</u> Since the last Monitoring group meeting LSPO has had a further meeting with Clowne Parish Council to discuss the area in front of Dominos on North Road. The discussion centred around the possibility of a community consultation, with a request for design ideas. It is planned that this will take place in the next couple of months.</p> <p><u>Meeting update</u> LSPO met with the PC in November and discussed a community consultation, possibly a design competition. LSPO to work with the Parish Council in progressing this over the next couple of months.</p> <p><u>Agreed Action</u> Monthly update</p>	<p>LSPO</p> <p>LSPO/PPPO</p> <p>LSPO</p> <p>LSPO</p> <p>LSPO/PPPO</p>
<b>17</b>	<p><b>Station Road, Langwith Junction – Health £16,000 (30.01.25)</b></p> <p><u>Action from Previous Quarterly Meeting</u> SDLPPSG&amp;H / PPPO to chase progress from the ICB.</p> <p><u>Updates since last meeting</u> No further update from previous last meeting when SDLPPSG&amp;H advised that the Integrated Care Board (ICB) were in contact to advise that they were in discussions with the Langwith Medical Centre to develop a scheme. On this basis, the ICB confirmed that they would be able to spend the £16,000 well before the January 2025 deadline.</p>	<p>SDLPPSG&amp;H</p> <p>SDLPPSG&amp;H</p> <p>SDLPPSG&amp;H</p>

<u>Update at meeting</u> No further update.	
<u>Agreed Action</u> Report to the next meeting	SDLPPSG&H

2.9 These updates demonstrate the monitoring carried out by Planning Officers and the progress being made by Spending Officers to ensure that S106 monies are spent in a timely manner alongside the build-out of the approved developments. However, in line with the Council's S106 Agreement Monitoring Procedure the relevant Spending Officers will be in attendance at the Committee to answer any questions to Members on the above Action Plan items.

2.10 In addition to these time sensitive items, the Procedure requires that Members are provided with summary information in relation to Section 106 Agreement monies held with deadlines beyond the 24-month period. Based on the position at the end of Quarter 3 (31<sup>st</sup> December 2023), the following 'summary of sums' can be provided for years three, four and five.

Infrastructure type	Amount in later years		
	Year 3	Year 4	Year 5 and beyond
Art	£20,933.45	£12,695.12	£477.46 (no clawback)
Outdoor Sport	£64,089.90	£48,723.75	£220,025.69 (of which, no clawback against £32,867.69)
Informal Open Space	£30,400.07	£116,794.50	£109,359.00
Health	£11,784.56	£0	£60,316.90 (of which, no clawback against £12,277.20)
Highways	£0	£0	£569,000.00 (no clawback)
Biodiversity	£0	£0	£8,029.96
	<b>£127,207.98</b>	<b>£178,213.37</b>	<b>£967,209.01</b>

2.11 The spend profiles for Health, Highways and Biodiversity remain the same as for the previous financial quarter. Sums against Outdoor Sport in year 5 have increased with the allocation received from the development at Glapwell Nurseries. Sums against Open Space in year 5 have also increased with the allocation received from the development at Mooracre Lane, Bolsover.

### **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.

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

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

<b>DOCUMENT INFORMATION</b>	
<b>Appendix No</b>	<b>Title</b>
<b>Background Papers</b>	
<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>	