

**Bolsover District Council**

**Meeting of the Planning Committee on 19<sup>th</sup> June 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> April 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 March, seven sums were identified as being within their 24-month deadline as of 18<sup>th</sup> January 2024.
- 2.3 As of the Monitoring Group meeting on 18<sup>th</sup> April 2024 there are eight sums within their 24-month deadlines (details below).

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

Action Plan	Finance Spreadsheet	Site	Infrastructure and amount	Amount remaining	Date
<b>Item 9</b>	Line 85	Rosewood Lodge Farm South Normanton	Outdoor Sport (£43,548.85)	£360.85 <b>£20,100 spent during quarter. Residual sum to be reallocated</b>	21.05.24
<b>Item 10</b>	Line 85	Rosewood Lodge Farm South Normanton	Health (£80,141.59)	£0 <b>Full £80,141.59 transferred to ICB</b>	21.05.24
<b>Item 17</b>	Line 83	Mansfield Road, Tibshelf	Outdoor Sport (£164,153)	£163,003 <b>No change</b>	20.12.24
<b>Item 19</b>	Line 89	Oxcroft Lane, Bolsover	Outdoor Sport (£125,336.69)	£123,614.19	10.03.25

				<b>£144.36</b> spent during quarter.	
<b>Item 21</b>	Line 91	High Ash Farm, Clowne	Open Space (£10,184.39)	£10,184.39 <b>No change</b>	19.3.25
<b>Item 22</b>	Line 88	Station Road, Langwith Junction	Health (£16,000)	£16,000 <b>No change</b>	30.1.25

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

Action Plan	Finance Spreadsheet	Site	Infrastructure and amount	Amount remaining	Date
Item 4	Line 84	Spa Croft, Tibshelf	Art (£10,176.20)	£10,176.20 <b>No change</b>	31.3.26
Item 21	Line 71	Creswell Road, Clowne	Outdoor Sport (£26,207)	£26,207 <b>No change</b>	3.3.26

- 2.4 As can be seen from the tables above, the two allocations from the Rosewood Farm development at South Normanton have now been spent or transferred. From this development there is a residual amount from the allocation for Outdoor Sport, which is to be reallocated to contribute towards an Open Space project in South Normanton.
- 2.5 The other allocation that was within the 12 months spending deadline as reported in March was for Outdoor Sport from the Mansfield Road development at Tibshelf. It is anticipated that this contribution will be spent this summer.
- 2.6 Since the last quarterly update report, three further allocations have come within the 12-month spending deadline. They comprise the allocation for Health from the development at Langwith Junction, the allocation for Open Space from the development at High Ash Farm at Clowne and the allocation for Outdoor Sport from the Oxcroft Lane development at Bolsover. The latter, which is to fund a Skatepark at Hornscroft Park has been further reduced, with the spending of £144.36 on an additional planning fee to upgrade the original outline application to a full application. To date a total of £1,866.86 has been spent from this allocation. There has been no change in the spending of the other two allocations.
- 2.7 Since the March meeting of the Planning Committee, two new allocations have come within the two-year spending threshold, the allocation for Outdoor Sport from the Creswell Road Clowne development and the allocation for Art from the development at Spa Croft Tibshelf. To date, there has been no spend against these allocations.

2.8 The updates for the remaining items above as recorded at the Section 106 Monitoring Group are set out below for Member's information.

(DMLCM = Development Management and Land Charges Manager; CADO = Community Arts Development Officer; LSPO = Leisure Special Projects Officer; PPPO = Principal Planning Policy Officer; CLE = Chartered Legal Executive; SDLPPSG&H = Senior Devolution Lead for Planning Policy, Strategic Growth and Housing; 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
<b>17</b>	<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 the last meeting</u> Works out to tender with a return date of 8 March with evaluation to be carried out and contract awarded 20 March following parish council meeting. Tender specification amended, with the skate park removed to be replaced by a small MUGA.</p> <p><u>Meeting update</u> Contractor appointed. Met on site 17<sup>th</sup> April. Works to start on site imminently to be completed before the school summer holidays.</p> <p><u>Agreed Action</u> Monthly updates</p>	<p><b>LSPO</b></p> <p>LSPO/PPPO</p> <p>LSPO</p> <p>LSPO</p> <p>LSPO/PPPO</p>
<b>19</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 between and at meeting</u> Proposed Skatepark is progressing, with an archaeological investigation a pre-start condition. The archaeological works carried out by ECUS Ltd under a Written Scheme of Investigation (WSI) approved by the County Archaeologist. The scheduled start date for construction works 25 March. Contractor in place (Maverick Industries</p>	<p>LSPO</p> <p>LSPO</p> <p>LSPO</p>

	<p>Ltd.) Target date for completion of works 19 July 2024</p> <p><u>Meeting update</u> Archaeological dig completed with some small finds. Contractor due to start Monday 22<sup>nd</sup> April with planned completion before school summer holidays.</p> <p><u>Agreed Action</u> Report to next meeting.</p>	<p>LSPO</p> <p>LSPO</p>
<b>21</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> Discussions ongoing with Clowne Parish Council to develop public open space on land off North Road, Clowne comprising a small improvement scheme of around £10,000 with a public consultation/request for ideas from March to April. The works are to be tendered in Spring with the aim that they will be carried out in early Autumn 2024</p> <p><u>Meeting update</u> Item to be taken to Parish Meeting on Monday 22<sup>nd</sup> April to agree Public Consultation.</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>22</b>	<p><b>Station Road, Langwith Junction – Health £16,000 (30.01.25)</b></p> <p><u>Action from Previous Quarterly Meeting</u> Report to next meeting.</p> <p><u>Update at meeting</u> SDLPPSG&amp;H not at meeting but has reported that discussions with NHS ICB ongoing and more detailed update to come to the next meeting.</p> <p><u>Agreed Action</u> Report to the next meeting</p>	<p><b>SDLPPSG&amp;H</b></p> <p>SDLPPSG&amp;H</p> <p>SDLPPSG&amp;H/ PPPO</p>

<p><b>4</b></p>	<p><b>Spa Croft, Tibshelf – Art £10,176.20 (30.03.26)</b></p> <p><u>Action from previous quarterly meeting</u> Monthly updates.</p> <p><u>Updates since the last meeting</u> The design/concept of a stone pillar agreed in principle. An initial informal site surveying/3D mock-up is completed. The timeline for procurement to begin in May 2024 is on track. At a recent meeting with the National Trust at Hardwick Hall either a stone donation or the NT commissioning the work as a whole is a possibility.</p> <p><u>Meeting Update</u> CADO provided a Design Communication Document which sets out what the community would like to see and a ‘mock up’ artist impressions of what the structure would look like, and all agreed that the proposed design could make a positive place-making contribution. The developer has agreed a location and is preparing tenders.</p> <p>The timeline as set out at the last meeting still holds with <b>May to June 2024</b> – for the commissioning of the artist and application for licences, and <b>September instead of June 2024</b> – for the work to start...with all works still programmed for completion by March 2025.</p> <p>Discussed that the structure would require Planning Permission. On a highway verge, so the need for a highway license.</p> <p><u>Agreed Action</u> Developer to be notified of need for Planning Permission and DCC Highways to be made aware of proposal. Monthly update</p>	<p><b>CADO</b></p> <p>CADO</p> <p>CADO</p> <p>CADO</p> <p>PPPO/DMCO</p> <p>CADO/PPPO</p>
<p><b>21</b></p>	<p><b>Creswell Road, Clowne – Outdoor Sport £26,207 (3.3.26)</b></p> <p><u>Previous Action</u> New Action. Since the last meeting this obligation has come within the 2 years spend threshold.</p> <p><u>Meeting Update</u> Missed off the meeting agenda in error.</p>	<p><b>LSPO</b></p> <p>PPPO</p>

<p><u>Agreed Action</u> None</p> <p><u>Update since the meeting</u> There is circa £26,000 which is allocated to a new skate park at Clune Street Recreation Ground. This is currently out to tender via Clowne Parish Council who are leading on the scheme.</p>	<p>LSPO</p>
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- 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 4 (31<sup>st</sup> March 2024), 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
<b>Art</b>	£20,933.45	£12,695.12	£477.46 (no clawback)
<b>Outdoor Sport</b>	£22,842.90	£60,046.75	£210,597.69  (of which, no clawback against £34,762.70)
<b>Informal Open Space</b>	£30,400.07	£116,794.50	£139,252.00  (of which, no clawback against £29,893)
<b>Health</b>	£11,784.56	£0	£60,316.90  (of which, no clawback against £12,277.20)
<b>Highways</b>	£0	£0	£569,000.00 (no clawback)
<b>Biodiversity</b>	£0	£0	£8,029.96
<b>Totals</b>	£85,960.98	£189,536.37	£987,674.01

2.11 The spend profiles for Art, Health, Highways and Biodiversity remain the same as for the previous financial quarter. The passage of time has brought Outdoor Sport sums into the shorter spending thresholds, consequently, sums in year 5 have decreased with sums increasing in both years 3 and 4. The sums against Open Space remain the same in years 3 and 4 but have increased in year 5 with monies received towards maintenance from the developments at Spa Croft, Tibshelf and at Carter Lane West, South Normanton. As maintenance sums there is no clawback with regard to the £29,893 received.

### **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> <i>(Only Key Decisions are subject to Call-In)</i></p>	No

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

<b>Links to Council Ambition: Economy, Environment and Housing</b>
<ul style="list-style-type: none"> <li>• Focussing on our <b>Economy</b> by driving growth, promoting the district and being business and visitor friendly.</li> <li>• Focussing on our <b>Environment</b> by protecting the quality of life for residents and businesses, meeting environmental challenges, and enhancing biodiversity.</li> <li>• Focussing on our <b>Housing</b> by delivering social and private sector housing growth.</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>	