

Bolsover District Council

Meeting of the Planning Committee on 4th September 2024

Quarterly Update on Section 106 Agreement Monitoring

Report of the Portfolio Holder for Corporate Governance

Classification	This report is Public
Contact Details	Julie-Anne Middleditch Principal 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.

REPORT DETAILS

1. Background

- 1.1 Section 106 agreements are legal agreements 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.
- 1.6 Accordingly, this report is the quarterly progress report following the meeting of the Section 106 Monitoring Group held on 18th July 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 on 19th June, eight sums were identified as being within their 24-month deadline as of 18th April 2024.
- 2.3 As of the Monitoring Group meeting on 18th July 2024 there are nine sums within their 24-month deadlines (details below).

Spend Date within 12 months (by 18th July 2025)

Action Plan	Finance Spreadsheet	Site	Infrastructure and amount	Amount remaining	Date
Item 17	Line 83	Mansfield Road, Tibshelf	Outdoor Sport (£164,153)	£162,915 Reduced by £88	20.12.24
Item 19	Line 89	Oxcroft Lane, Bolsover	Outdoor Sport (£125,336.69)	£123,469.84 Reduced by £144.35 Now spent	10.3.25
Item 22	Line 88	Station Road, Langwith Junction	Health (£16,000)	£16,000 No change	30.1.25

- 2.4 Members will note that since the quarterly update report presented to June's meeting of the Planning Committee there has been further spend of £88 against the Outdoor Sports sum from the Mansfield Road Tibshelf development. Since the S106 Monitoring Group meeting in July, the Outdoor Sports sum from the Oxcroft Lane development has been spent in full with the completion and handover of the Skatepark development at Hornscroft Park, Bolsover. The Health sum from the Station Road development at Langwith Junction remains unspent.
- 2.5 The sum of £10,184.39 from the High Ash Farm, Clowne development that was reported on at the last meeting has been removed from the list of sums needing to be spent. As notified to all Members following the last meeting, it is in fact a maintenance sum related to an area of open space within the development and as such there is no clawback provision.

Spend Date within 2 years (by 18 July 2026)

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 No change	31.3.26
Item 21	Line 71	Creswell Road, Clowne	Outdoor Sport £26,207	£26,207 No change	3.3.26
Not in Action Plan	Line 96	Land at Thornhill Drive, South Normanton	Art £10,757	£10,757.25 No change	24.6.26
Not in Action Plan	Line 97	Land at Thornhill Drive, South Normanton	Outdoor Sport £22,843	£15,555.75 Reduced by £7,287.25	24.6.26

Not in Action Plan	Line 98	Land at Thornhill Drive, South Normanton	Open Space £30,400	£30,400.07 No change	24.6.26
Not in Action Plan	Line 99	Land at Thornhill Drive, South Normanton	Health £11,784	£11,784.56 No change	24.6.26

2.6 Since the last Planning Committee four further sums have come within the 2 years spend threshold. All are from the development at Thornhill Drive, South Normanton and are to contribute towards a range of infrastructure. Of these there has been £7,287.25 spend to date against the Outdoor Sport allocation. This was spent on various works to the football pitches at Common Meadows and to the pavilion at Broadmeadows Open Space. The LFPDM is in discussion with the Parish Council concerning other potential projects. All four sums from Thornhill Drive have since been included on the Action Plan.

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; LFPDM =Leisure Facilities Planning & Development Manager; PPPO = Principal Planning Policy Officer; SDLPPSG&H = Senior Devolution Lead for Planning Policy, Strategic Growth and Housing; 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
17	Mansfield Road, Tibshelf – Outdoor Sport £164,153 (20.12.24) £162,915 (outstanding)	LFPDM
	<u>Action from previous quarterly meeting</u> Monthly updates	LFPDM/PPPO
	<u>Update between April and July meeting.</u> Pre-start meeting with supplier/installers/parish council scheduled for 2 July. With a start on site scheduled for 30 July, estimated 6 weeks on site.	LFPDM

	<p><u>July meeting update</u> Revised timeframe of 9 weeks to undertake the work.</p> <p><u>Agreed Action</u> Report to next meeting.</p> <p><u>Update Since Meeting</u> Contractors on site as of 30th July</p>	<p>LFPDM</p> <p>LFPDM</p> <p>LFPDM</p>
19	<p>Oxcroft Lane, Bolsover – Outdoor Sport £125,336.69 (10.03.25) £123,469.84 (outstanding)</p> <p><u>Action from previous quarterly meeting</u> Report to next meeting.</p> <p><u>Update between April and July meeting.</u> This allocation will contribute to new skatepark at Hornscroft Park. The construction company Maverick started on site on Monday 22 April and have been making good progress. Estimated completion late July/early August, not far off the original target.</p> <p><u>Meeting update</u> Money transferred to Old Bolsover Town Council. Skatepark near completion. ROSPA sign-off inspection booked for Thursday 25th July.</p> <p><u>Agreed Action</u> Remove from Action Plan</p> <p><u>Update since Meeting</u> Old Bolsover Town Council confirmed receipt of the funds from BDC on 22nd July 2024. The skatepark was handed over to the Parish on 25th July.</p>	<p>LFPDM</p> <p>LFPDM</p> <p>LFPDM</p> <p>LFPDM</p> <p>ALL</p> <p>LFPDM</p>
22	<p>Station Road, Langwith Junction – Health £16,000 (30.01.25)</p> <p><u>Action from Previous Quarterly Meeting</u> Report to next meeting.</p> <p><u>July meeting update</u> At the last update from SDLPPSG&H before the April meeting, progress is ongoing. Integrated Care Board (ICB) confirmed previously that they would be able to spend the £16,000 well before the</p>	<p>SDLPPSG&H</p> <p>SDLPPSG&H</p> <p>PPPO</p>

	<p>January 2025 deadline. PPPO to be taking forward Actions on the Health obligations following a handover by SDLPPSG&H.</p> <p><u>Agreed Action</u> Handover on all S106 Health obligations.</p> <p>Report to the next meeting.</p> <p><u>Update since Meeting</u> 23.7 24 email PPPO to ICB including extracts from the Action Plan of the 2 Health contributions that are within the 2-year spending threshold. Requesting a meeting to discuss progress.</p>	<p>SDLPPSG&H/ PPPO PPPO</p> <p>PPPO</p>
<p>4</p>	<p>Spa Croft, Tibshelf – Art £10,176.20 (31.03.26)</p> <p><u>Action from previous quarterly meeting</u> Developer to be notified of need for Planning Permission and DCC Highways to be made aware of proposal.</p> <p>Monthly update</p> <p><u>July Meeting Update</u> A written update from CADO submitted prior to the meeting states that since the last meeting in April, Hardwick estate have stated that they are unable to donate any stone or tender for the work. They have however indicated that they may have some contacts within Derbyshire County Council's departments concerning this kind of work so are forwarding CADO some contacts.</p> <p>The timeline as set out at the last meeting has slipped with September 2024 for the commissioning of the artist and application for licences instead of May 2024. The planned end date remains March 2025.</p> <p>Discussed at the April meeting 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.</p> <p>Monthly updates</p>	<p>CADO</p> <p>PPPO/DMCO</p> <p>CADO</p> <p>CADO</p> <p>PODM/DMCO</p> <p>CADO/PPPO</p>

<p>21</p>	<p>Creswell Road, Clowne Outdoor Sport £26,207 (3.3.26)</p> <p><u>Previous Action</u> None (item missed off agenda in error)</p> <p><u>Update between April and July meeting.</u> LFPDM confirmation in May that the sum which is in the region of £26,000 is allocated to a new skate park at Clune Street Recreation Ground and that the project is currently out to tender via Clowne Parish Council who are leading on the scheme. Confirmed in June that a total of 6 tender returns have been received. A tender evaluation session is scheduled for 19 July.</p> <p><u>July meeting update</u> Confirmed meeting with the Parish Council tomorrow (19th July) to undertake tender evaluation.</p> <p><u>Agreed Action</u> Report to next meeting.</p>	<p>LFPDM</p> <p>LFPDM</p> <p>LFPDM</p> <p>LFPDM</p>
	<p>Land at Thornhill Drive, South Normanton Art £10,757 (24.6.26)</p> <p><u>New Item on Action Plan</u></p> <p>CADO not at meeting</p> <p><u>Agreed Action</u> Add to Action Plan Report to next meeting</p>	<p>CADO</p> <p>PPPO CADO</p>
	<p>Land at Thornhill Drive, South Normanton – Open Space £30,400 (24.6.26)</p> <p>New Item on Action Plan</p> <p><u>Update at meeting</u> Discussed that under the terms of the S106, the monies for Open space could be combined with the funds remaining for Outdoor Sport (see below).</p> <p><u>Action</u> Add to Action Plan Report to next meeting</p>	<p>LFPDM</p> <p>LFPDM</p> <p>PPPO LFPDM</p>

	<p>Land at Thornhill Drive, South Normanton – Outdoor Sport £15,555.75 (24.6.26) £7,287.25 (outstanding)</p> <p>New Item on Action Plan</p> <p><u>Update at meeting</u> There has been spend to date against the allocation relating to various works to the football pitches at Common Meadows and to the pavilion at Broadmeadows. There is ongoing discussion with the Parish Council concerning other potential projects. As stated above, under the terms of the S106, the monies for Open space could be combined with the funds remaining for Outdoor Sport.</p> <p><u>Action</u> Add to Action Plan Report to next meeting</p>	<p>LFPDM</p> <p>LFPDM</p> <p>PPPO LFPDM</p>
	<p>Land at Thornhill Drive, South Normanton – Heath £11,784 (24.6.26)</p> <p>SDLPPSG&H not at meeting</p> <p><u>Agreed Action</u> Handover on all S106 Health obligations.</p> <p>Report to the next meeting.</p> <p><u>Update since Meeting</u> 23.7 24 email PPPO to ICB sending extracts from the Action Plan of the 2 Health contributions that are within the 2-year spending threshold. Requesting a meeting to discuss progress.</p>	<p>SDLPPSG&H</p> <p>PPPO SDLPPSG&H</p> <p>PPPO</p> <p>PPPO</p>

2.8 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.

2.9 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 1 (30th June 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
Art	£0.00	£12,695.12	£99,805.57 (no clawback on £477.46)
Outdoor Sport	£48,723.75	£53,930.58	£163,724.69 (no clawback on £48,424.19)
Informal Open Space	£116,794.50	£36,916.00	£211,454.98
Health	£0.00	£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
	£165,518.25	£103,541.70	£1,307,750.46

- 2.10 In Q1 of 2024/235 contributions for Art and Outdoor Sport were received from the development at Broad Lane Hodthorpe and are included in the sums for year 5 and beyond.
- 2.11 Since the last meeting sums against Health, Outdoor Sport, Informal Open Space and Art that that were previously in year 3 have come within the 24-month spending threshold. Notwithstanding this, the sums that come within the 3-year spending threshold with regard to Outdoor Sport and Informal Open Space have increased, moving from the 4-year threshold. The sums for Highways and Biodiversity remain the same as for the previous financial quarter.

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.

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