

BOLSOVER DISTRICT COUNCIL

Meeting of the Planning Committee on 19th February 2025

Quarterly update on Section 106 Agreement Monitoring

Report of the Portfolio Holder for Growth

Classification	This report is Public
Report By	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 Implementation of 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. Although the risk is relatively low, 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 an approved procedure for recording and monitoring Section 106 Agreements. The S106 Monitoring Procedure governs the work of the Council's cross-departmental Section 106

Monitoring Group. The latest version of the Procedure is considered elsewhere on this agenda.

- 1.5 Following the quarterly Section 106 Monitoring Group meetings, officers provide a progress report to the Planning Committee in respect of the monitoring of Section 106 Agreements. In line with the approved Procedure the 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 20th January 2025.

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 to Planning Committee in November, eight remaining sums were identified as being within their 24-month deadline as of the October Monitoring Group meeting.
- 2.3 As reported to the Monitoring Group meeting on 20th January 2025 there were seven remaining sums within their 24-month deadlines (details below).

Spend Date within 12 months (by 30th December 2025)

Action Plan	Finance Spreadsheet	Site	Infrastructure and amount	Amount remaining	Date
Item 22	Line 88	Station Road, Langwith Junction	Health (£16,000)	£16,000 No change	30.1.25

- 2.4 Since the meeting of the S106 Monitoring Group the Health sum from the Station Road development at Langwith Junction has been spent prior to its deadline, having been transferred to the Derby and Derbyshire Integrated Care Board on 29th January 2025.

Spend Date within 2 years (by 30 December 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
Item 17	Line 96	Land at Thornhill Drive, South Normanton	Art £10,757	£10,757.25 No change	24.6.26
Item 18	Line 97	Land at Thornhill Drive, South Normanton	Outdoor Sport £22,843	£17,086.99. Reduced by £5,755.91	24.6.26
Item 19	Line 98	Land at Thornhill Drive, South Normanton	Open Space £30,400	£30,400.07 No change	24.6.26
Item 20	Line 99	Land at Thornhill Drive, South Normanton	Health £11,784	£11,784.56 No change	24.6.26

- 2.5 Since the last Planning Committee, no further sums have come within the 2 years spend threshold.
- 2.6 The updates for the above items as recorded at the Section 106 Monitoring Group are set out below for Member's information.

Acronyms: DMLCM = Development Management and Land Charges Manager; CADO = Community Arts Development Officer; = Leisure Facilities Planning & Development Manager; 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 =

Item	Development site, relevant S106 sum and spend by date	Responsible officer
10	<p>Station Road, Langwith Junction – Health £16,000 (30.01.25)</p> <p><u>Action from Previous Quarterly Meeting</u> To investigate the circumstances of the existing Health Centre.</p> <p>Discuss with Legal Services if under the terms of the S106 if there is the opportunity for the Council to have a legally binding agreement with the ICB as non-signatories, in order that they can draw down remainder of funds to use at a later date on capital works.</p> <p><u>Update between October and January meetings</u> A scheme agreed with the ICB for the money to be spent at Langwith Surgery to create designated clinical space and a room for clinicians with the remainder to be a contribution towards the new Health Centre at Creswell.</p> <p><u>January meeting update</u> Indemnity Agreement being drawn up by locum solicitor. Money to be transferred by the clawback deadline of 30th January. To look at a different approach in the future for the Council to discharge its liability in the S106 Agreement itself.</p> <p><u>Agreed Action</u> Remove from the Action Plan</p>	<p>PPPO</p> <p>PPPO</p> <p>PPPO</p> <p>PPPO</p> <p>PPPO</p> <p>PPPO</p>
4	<p>Spa Croft, Tibshelf – Art £10,176.20 (31.03.26)</p> <p><u>Action from previous quarterly meeting</u> To take project through Procurement process before the next meeting.</p> <p><u>Update between October and January Meeting</u> At the last meeting we were awaiting approval from legal services regarding the tender documentation. There were questions around Construction Design Management and Health and Safety so also sent to H&S. LSPDM had mentioned that Minor Works Contract may be a way forward. Following the meeting confirmation was received from Legal</p>	<p>CADO</p> <p>PPPO</p> <p>CADO</p>

	<p>that the Request for Quotation to tender for the project could proceed.</p> <p>Seven Artists had expressed interest in tendering for the work. Quotation closing date moved from Tuesday 14th January to Friday 17th January. The Contract Start date is to be W/C 20th January and the Project Completion date 30th September 2025</p> <p><u>January meeting update</u> Two tenders received. The Community Group is to go through the tenders with CADO. Anticipating a start date of W/C 27th January.</p> <p><u>Agreed Action</u> Report to next meeting.</p>	<p>CADO</p> <p>CADO</p> <p>CADO</p>
<p>14</p>	<p>Creswell Road, Clowne – Outdoor Sport (SP) Planning Ref: 14/00603/FUL £26,207 (3.3.26)</p> <p><u>Previous Action</u> Report to next meeting.</p> <p><u>January meeting update</u> Last reported that LSPDM had been working with the Parish Council on a skatepark proposal but that very late in the process the Parish Council wanted to undertake a public consultation to see if a skatepark is actually what the community want, notwithstanding that the project had gone through procurement and a potential contractor had been identified. There is a spend date of March 2026 against this sum.</p> <p>Waiting to hear back from Parish Council following recent retirement of the Clerk. If they decide not to pursue the skate park there are other options available under the terms of the S106 to enhance formal leisure facilities.</p> <p><u>Agreed Action</u> Notify PPPO of intentions of Parish Council so that other potential options that are within the terms of the S106 can be discussed</p>	<p>LSPDM</p> <p>LSPDM</p> <p>LSPDM</p> <p>LSPDM</p>

<p>15</p>	<p>Land at Thornhill Drive, South Normanton – Art 17/00148/OUT £10,757 (24.6.26)</p> <p><u>Previous Action</u> Report to next meeting.</p> <p><u>Update between October and January meeting</u> Last reported that there was an issue with the S106 requiring that the artwork is related to the site but that there is no obvious space for any artwork on it. As the S106 mentioned other forms art that can be considered CADO has looked at potential projects be they physical or community based.</p> <p>The contribution is planned to form a ‘pilot’ project focused on the location that will last for one year running from April 2025 to March 2026 with targeted marketing and information to the residents of this development. It will also open to the wider community of South Normanton to enable several initiatives.</p> <p>The Project will be underpinned by the soon to be published Community Arts Strategy with its aim of increasing involvement in participation for residents and being inclusive by using arts as a language to reach wider into communities. With the overarching aim of promoting Arts as activity.</p> <p><u>January meeting update</u> Initial conversation has been had with the artist.</p> <p><u>Agreed Action</u> Report to next meeting</p>	<p>CADO</p> <p>CADO</p> <p>CADO</p> <p>CADO</p> <p>CADO</p> <p>CADO</p>
<p>16</p>	<p>Land at Thornhill Drive, South Normanton – Open Space 17/00148/OUT £30,400 (24.6.26)</p> <p><u>Previous Action</u> To discuss S106 and Planning Policy basis for spending the sum in the light of CLE advice</p> <p><u>Update between October and January meeting</u> At the last meeting it was discussed that there were various projects that the Parish Council had highlighted for the Recreation Ground. As the Recreation Ground had outdoor sports facilities that are in need of refurbishment including the BMX track and the skatepark it was thought that as outdoor sport equipment in a public open space, the monies could be combined. The outstanding</p>	<p>LSPDM</p> <p>PPPO/LSPDM</p> <p>LSPDM/PPPO/D MCO/DMLCM</p>

	<p>matter was whether the Open Space contribution could be used for these projects alongside the Outdoor Sports moneys.</p> <p>At a round table meeting with DM Officers and LSPDM it was agreed that due to the tightly prescribed sports policies of the Local Plan that focus on Playing Pitches and Indoor Sports, the BMX/Skatepark did not come within them. They do however come within Policy ITCR5 as part of a NEAP, a Neighbourhood Equipped Area for Play. So the Open Space money of just over £30,000 can be used for the upgrading works.</p> <p><u>Update at January meeting</u> LSPDM has met with Parish Council and the preference is to do something with the old BMX track. Aiming to proceed on this basis but unsure how far the contribution will go.</p> <p><u>Agreed Action</u> Report to next meeting</p>	<p>LSPDM</p> <p>LSPDM</p>
<p>17</p>	<p>Land at Thornhill Drive, South Normanton – Outdoor Sport 17/00148/OUT £17,086.99 remaining (24.6.26)</p> <p><u>Previous Action</u> Report to next meeting.</p> <p><u>Update between July and October meeting</u> Under Local Plan Policy Outdoor Sport relates only to playing pitches and their ancillary buildings This contribution cannot therefore be used as a contribution towards the bmx improvements. LSPDM is in discussions with the Parish Council regarding other potential projects.</p> <p><u>January meeting update</u> There are a range of sites where the contribution could be spent. The Pavilion is an obvious project given its condition, but the Parish Council are not keen for the contribution to be used for repairs to this building.</p> <p><u>Agreed Action</u> Report to next meeting</p>	<p>LSPDM</p> <p>LSPDM</p> <p>LSPDM</p> <p>LSPDM</p> <p>LSPDM</p>

20	Land at Thornhill Drive, South Normanton – Health17/00148/OUT £11,784.56 (24.6.26)	PPPO
	<u>Previous Action</u> To follow up on the response for an update on this S106 contribution with a request for more information.	PPPO
	<u>Update between October and January meeting</u> ICB reported no update on a project for this contribution, except to say that they are aware of it and will be speaking to the practice in due course.	PPPO
	<u>January meeting update</u> The monies are to be used towards the enhancement of The Village Surgery at Pinxton and The Hub Surgery at South Normanton. Nothing further to report	PPPO
	<u>Agreed Action</u> Contact the ICB for an update on potential projects.	PPPO

2.7 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 attend the Committee to answer any questions to Members on the above Action Plan items.

2.8 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 (31st December 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
Affordable Housing	£0.00	£0.00	£195,418.36
Art	£12,695.12	£0.00	£99,805.57 (no clawback on £477.46)
Outdoor Sport	£48,723.75	£27,756.16	£455,132.19 (no clawback on £32,867.69)
Informal Open Space	£116,794.50	£109,359.00	£65,220.84

			(no clawback on £10,000.77)
Health	£0.00	£0	£91,209.25 (of which, no clawback against £12,277.20)
Highways	£0	£0	£569,000.00 (no clawback)
Biodiversity	£0	£0	£8,029.96
	£178,213.37	£137,115.16	£1,483,816.17

- 2.9 Since the last meeting there have been changes in the profile of sums across the years for most areas of infrastructure due to the passage of time. The sum for Art from the development at High Ash Farm has come within the 3 years spending timeframe. The Outdoor Sports contributions in both years 4 and 5 have increased with the contribution from Land off Oxcroft Lane, Bolsover, coming within the 4 years spending timeframe and the new contribution from Land off Lees Lane, South Normanton included in year 5. The Informal Open Space contribution from Mooracre Lane, Bolsover, has come within the four-year timeframe since the last quarter. The sum available in year 5 for Health has increased on receiving the contribution from Lees Lane, South Normanton. The profile of sums for Biodiversity remains the same. Overall, the sums available in years 3-5 across all areas of infrastructure provision have increased since the last financial quarter by just under £140,000.

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 the Portfolio Holder for Growth

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

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

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

District Wards Significantly Affected	All
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"/>	No

Links to Council Ambition: Customers, Economy, Environment and Housing.
<u>Environment</u> <ul style="list-style-type: none"> Ensuring all area, neighbourhoods and streets in the district, irrespective of housing tenure or type, are places where people want to live, feel safe, and are proud to live; <u>Housing</u> <ul style="list-style-type: none"> Enabling housing growth by increasing the supply, quality, and range of housing to meet the needs of the growing population.

DOCUMENT INFORMATION	
Appendix No	Title
Background Papers	