

Bolsover District Council

Meeting of the Planning Committee on 11th June 2025

QUARTERLY UPDATE ON SECTION 106 AGREEMENT MONITORING

Report of the Assistant Director: Planning & Planning Policy

Classification	This report is Public
Report By	Julie-Anne Middleditch Principal Planning Policy Officer

PURPOSE / SUMMARY OF REPORT

- To provide a progress report on the spending of S106 contributions.
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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.

- 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 29th April 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 February, seven remaining sums were identified as being within their 24-month deadline as of the January Monitoring Group meeting.
- 2.3 As reported to the Monitoring Group meeting on 29th April 2025 there were six remaining sums within their 24-month deadlines (details below).

Spend Date within 12 months (by 29th April 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

- 2.4 Since last reported to Planning Committee two sums, for Art and for Outdoor Sport have come within the one year spending timeframe. There has been no spend to date against these sums.

Spend Date within 2 years (by 29th April 2027)

Action Plan	Finance Spreadsheet	Site	Infrastructure and amount	Amount remaining	Date
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	£5,272.24. Reduced by £11,814.75	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, there has been further spend against the Outdoor Sport sum from the development of Land at Thornhill Drive, South Normanton. No further sums have come within the 2 years spend threshold.
- 2.6 The updates for the above items as discussed 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 = Development Management Case Officer; P&SM = Partnership and Strategy Manager

Item	Development site, relevant S106 sum and spend by date	Responsible officer
4	<p>Spa Croft, Tibshelf – Art £10,176.20 (31.03.26)</p> <p><u>Action from previous quarterly meeting</u> Report to next meeting</p> <p><u>Update between January and April Meeting</u> Planning Committee update in February. Anticipated start date for the contract Monday 24th Feb 2025. The contract has a proposed final expenditure date of 30th Sept 2025.</p> <p><u>April meeting update</u> The contract has been signed. CADO met with the Community Group. The Contract end date has been confirmed as the end of October. Consultation has been undertaken with Development Management and DCC Highways. The Community Group are to submit the Planning Application.</p> <p><u>Agreed Action</u> Report to next meeting.</p>	<p>CADO</p> <p>PPPO</p> <p>CADO</p> <p>CADO</p> <p>CADO</p>
14	<p>Creswell Road, Clowne – Outdoor Sport (SP) Planning Ref: 14/00603/FUL £26,207 (3.3.26)</p> <p><u>Previous 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 if the skatepark does not proceed.</p> <p><u>Update between January and April meeting</u> The Parish Council has confirmed that they are to proceed with the Skatepark. A contractor, Wheelscape Ltd has been selected.</p> <p><u>April meeting update</u> LSPDM meeting with the Parish on 30th April to agree a design.</p> <p><u>Agreed Action</u> It was thought that planning permission may be needed for the skatepark. The agreed action following the meeting reflected this position. Since that time, it has been confirmed that planning permission will not be needed.</p>	<p>LSPDM</p> <p>LSPDM</p> <p>LSPDM</p> <p>LSPDM</p>

	<p>The revised agreed action on this item is therefore for an update to be reported to the next meeting.</p>	LSPDM
15	<p>Land at Thornhill Drive, South Normanton – Art Planning Ref: 17/00148/OUT £10,757 (24.6.26)</p> <p><u>Previous Action</u> Report to next meeting.</p> <p><u>April meeting update</u> The Project will be underpinned by the soon to be published Community Arts Strategy with its aim of increasing involvement in participation for residents, with the overarching aim of promoting Arts as activity.</p> <p>CADO confirmed an agreement in principle from a youth and community artist to commit to a 1-year programme of delivery and creation of artworks and community led arts and has set out a Project timetable to start in April 2025 and complete in March 2026. Locations nearby are to be looked at.</p> <p><u>Agreed Action</u> Further thought to be given to the form of the artwork in consultation with the DMCO.</p>	<p>CADO</p> <p>CADO</p> <p>CADO</p> <p>CADO/LSPDM</p>
16	<p>Land at Thornhill Drive, South Normanton – Open Space Planning Ref: 17/00148/OUT £30,400 (24.6.26)</p> <p><u>Previous Action</u> Report to the next meeting</p> <p><u>April meeting update</u> The latest thinking from the Parish Council is to turn the old BMX track into a Pump Track. Additional funding will be needed to achieve this. There is potentially 80K available that includes 20K from Lees Lane site (as the terms of this S106 state that the spend is to be within the Parish). LSPDM to investigate further whether these funds can be used.</p> <p><u>Agreed Action</u> Report to the next meeting</p>	<p>LSPDM</p> <p>LSPDM</p> <p>LSPDM</p> <p>LSPDM</p>

17	<p>Land at Thornhill Drive, South Normanton – Outdoor Sport Planning Ref: 17/00148/OUT £17,086.99 remaining (24.6.26)</p> <p><u>Previous Action</u> Report to next meeting.</p> <p><u>April meeting update</u> Since the last meeting over £11,000 of the contribution has been spent on repairs to the Pavilion leaving just over £5,000 remaining.</p> <p><u>Agreed Action</u> Report to next meeting</p>	<p>LSPDM</p> <p>LSPDM</p> <p>LSPDM</p> <p>LSPDM</p>
20	<p>Land at Thornhill Drive, South Normanton – Health Planning Ref: 17/00148/OUT £11,784.56 (24.6.26)</p> <p><u>Previous Action</u> Contact the ICB for an update on potential projects.</p> <p><u>Update between January and April meeting</u> The monies are to be used towards the enhancement of The Village Surgery at Pinxton and The Hub Surgery at South Normanton. Cllr Smith has visited the practice. The practice manager at Pinxton is struggling to come up with projects. A number of emails sent to the ICB suggesting that PPPO meet with the Practice(s) to move the project on.</p> <p>PPPO met with ICB in April. The background is that the Integrated Care Board have had a number of discussions with the Primary Care Network representative and also the doctors practice but that so far there has not been any progress with securing a scheme.</p> <p>The issue was raised by PPPO that as well as this sum, further sums of S106 funding have been received by BDC to be spent over the next 5 years across these surgeries amounting to £76,257.21 in total.</p> <p><u>April meeting update</u> Although both practices have capacity issues with regard to both accommodation and staffing, identified in the Infrastructure Study and Delivery</p>	<p>PPPO</p> <p>PPPO</p> <p>PPPO</p> <p>PPPO</p>

	Plan [2025 update], there is an impasse with regard to the take up of funding by the practices. <u>Agreed Action</u> PPPO to have further talks with the ICB to establish an agreed way forward as a matter of urgency.	PPPO
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- 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 4 (31st March 2025), 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	£0	£195,418.36
Art	£12,695.12 (no clawback)	£0	£99,328.11
Outdoor Sport	£48,637.23	£20,549.08	£319,448.93
Informal Open Space	£116,794.50	£109,359	£55,220.07
Health	£0	£0	£124,789.55
Highways	£0	£0	£569,000
Biodiversity	£0	£0	£8,029.96
	£178,126.85	£129,908.08	£1,371,234.98

- 2.9 Since the last quarter there have been no changes with regard to the profile of sums for years 3 and 4 across all infrastructure contributions. The new contributions received, included in year 5 and beyond, are from the development of land to the rear of 17-95 Alfreton Road, Pinxton. These two contributions comprise £33,580.30 for Health and £34,542.30 Outdoor Sport

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 Tom Munro, Portfolio Holder – 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:

☒ **Please indicate which threshold applies:**

Is the decision a Key Decision?

A Key Decision is an Executive decision which has a significant impact on two or more wards in the District or which results in income or expenditure to the Council above the following thresholds:

Yes ☐ No ☒

Revenue (a) Results in the Council making Revenue Savings of £75,000 or more or **(b)** Results in the Council incurring Revenue Expenditure of £75,000 or more.

(a) ☐ (b) ☒

Capital (a) Results in the Council making Capital Income of £150,000 or more or **(b)** Results in the Council incurring Capital Expenditure of £150,000 or more.

(a) ☐ (b) ☒

District Wards Significantly Affected:

(to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District)

Please state below which wards are affected or tick **All** if all wards are affected:

All ☒

Is the decision subject to Call-In?

(Only Key Decisions are subject to Call-In)

Yes ☐ No ☒

If No, is the call-in period to be waived in respect of the decision(s) proposed within this report? *(decisions may only be classified as exempt from call-in with the agreement of the Monitoring Officer)*

Yes ☐ No ☒

Consultation carried out:

(this is any consultation carried out prior to the report being presented for approval)

Yes ☐ No ☒

Leader ☐ Deputy Leader ☐ Executive ☐ SLT ☐
Relevant Service Manager ☐ Members ☐ Public ☐
Other ☒

Portfolio Member
for Growth

Links to Council Ambition: Customers, Economy, Environment, Housing

Environment

- 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.

Housing

- 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

(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).

DECEMBER 2024