

Bolsover District Council

Planning Committee

8th January 2020

Update on Section 106 Agreements

Report of the Head of Planning

Purpose of the Report

- To ensure that the District Council has a robust procedure for recording and monitoring Section 106 obligations (also referred to as S106 agreements).
- S106 agreements are a type of legal agreement between the Council and landowners/developers 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. Report Details

Background

- 1.1 In accordance with the Council's procedures for recording and monitoring Section 106 obligations this report is the quarterly status report and is intended to inform and give members the opportunity to assess the effectiveness of the monitoring procedures as well as receive up-to-date information on ongoing cases where planning obligations are involved.
- 1.2 It is important to provide this information to members for two key reasons: (i) 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 making; and (ii) there are strict criteria on how and when Section 106 contributions received by the District Council should be spent; if these criteria aren't met then there is a risk the proposed contribution will have to be returned to the developer and the associated infrastructure will not be provided.
- 1.3 Consequently, it is not only important that the District Council has a robust procedure for recording and monitoring Section 106 obligations, it is also important that there is appropriate oversight of how effectively these procedures work in practice: hence the purpose of this report.

S106 Money Received in BDC Holding Account

- 1.4 The current financial spreadsheet is attached as Appendix 1. Line numbers referred to below are on the left hand side of the table at Appendix 1. The spreadsheet shows that there is currently a total balance on hand for all S106 contributions of £1,141,070.47.
- 1.5 In accordance with the Council's procedure the following cases are highlighted because the deadline for spending S106 money is approaching and within 1 year of the 5 year spending deadline on the Council:-
- a. Line 47 The Brambles Doe Lea, art work money. The majority of the sum received has now been spent, however £4,361.11 was not spent before the deadline. This will now need to be returned to the developer in accordance with the legal agreement (unless the Developer agrees otherwise – The Arts Officer is awaiting a response from the developer on this matter).
 - b. Line 61 Former Woodside Stables site, Rotherham Road, Clowne. £6,939.67 for public art needs to be spent before 14/01/21.
 - c. Line 62 Former Woodside Stables site, Rotherham Road, Clowne. £37,957.75 for outdoor sports needs to be spent before 14/01/21.
 - d. Line 63 Former Woodside Stables site, Rotherham Road, Clowne. £195.29 for play space needs to be spent before 14/01/21.
The Arts Officer and Leisure Officer are aware of the spending deadline for b-d above and are working with the Parish Council to deliver a scheme.
- 1.6 There are no other areas of concern in respects of spending deadlines for payments received and the deadlines for expenditure.
- 1.7 The following new S106 payments have been received by the District Council since the previous report issued to Committee Members on 13/08/19 :-
Sherwood Lodge Site, Bolsover. Public Art £5,097

S106 Obligations Soon Due on Active Development Sites

- 1.8 In terms of current development sites, there are a number of sites where development has been commenced and officers are monitoring progress against S106 trigger points. The current monitoring list includes:-
- Chesterfield Road, Barlborough (13/00002/VARMAJ and 16/00187/REM). Permission for 157 dwellings plus offices and industrial units. Recently started so no obligations triggered yet. Obligations include:-
 - Sports £765/dwg, half at 50% dwgs occupied, half at 75% occupation.
 - Open space plus maintenance if adopted triggered at 33% of dwgs occupied.
 - Education £2,255/dwg on occupation of 75 dwgs.
 - Affordable Housing 10% at 60% of occupation.
 - The Edge, Mansfield Road, Clowne (12/00529). Permission for 149 dwellings now completed. £100,000 maintenance sum payable to BDC when Public Open Space adopted following resolution of snagging issues still being pursued.

- High Ash Farm, Mansfield Rd, Clowne (14/00057/OUTMAJ and 18/00084/OTHER). Permission for 41 dwellings. 17 dwellings occupied. Obligation triggers not yet reached. Main trigger is occupation of 24 dwellings:-
 - Play £10,000 and land
 - Education £16,623
 - Art £10,000
 - Footpath Link contribution £11,500
 - Affordable – none required; obligation removed by permission 18/00084/OTHER).
- Creswell Road Clowne (14/00603/FUL) permission for 28 dwellings. Commenced but trigger not reached (20 occupations – formal leisure contribution £24,144).
- Skinner Street Creswell (15/00368/FUL) permission for 82 dwellings. Now at approximately 50 occupations. The only requirements are for a School Link and footpath link to be delivered by 50th occupation. This is being pursued with DCC.
- Hawke Brook Close / Cavendish Grange / Oxcroft Lane, Bolsover (17/00314/FUL). Permission for 35 dwellings. 28 dwellings occupied. The Applicant has already paid S106 sums due in advance of triggers. Also 3 affordable houses to be provided. The trigger has been reached (16 occupations) and a transfer contract is in place but awaiting completion of build.
- Oxcroft Lane, Bolsover (15/00076/). Permission for 127 dwellings. New site just commenced summer 2019. No occupations yet. Obligations include:-

To DCC (Prior to first occupation):-

- Education £354,962.52
- Off-site traffic monitoring and mitigation contribution £150,000.
- Travel Plan Monitoring fee £2,500 per yr (Max of £12,500).
- Works to improve Mill Lane £50,000.
- Fund up to 3 TRO's to value of £5000 each.
- Construction traffic haul route to be agreed and enforced.

To BDC:-

- Sport £114,046 at 50% occupation
- Play Space to accord with scheme.
- Affordable Housing 10% on site in accordance with the scheme approved before 70% of market dwellings occupied.
- Site adjacent to Pattison Street Shuttlewood (19/00083/FUL). Permission for 78 dwellings. No known occupations to date. Obligations include:-
 - Education: £91,192 prior to 50% occupation and a further £91,192 prior to 75% occupation.
 - Affordable Housing: 8 units on site. Contracted before 50% occupied or if not provided on site £18750 per affordable dwelling.
- Mooracre Lane Bolsover (17/00234/FUL). Permission for 212 dwellings. 35 dwellings now occupied. Various S106 obligations (highways, affordable housing, bus service, primary education, POS and play, SuDS, no ransom strips) with various phased triggers. The next triggers due is at 60 occupations for first phase

education and road network payments. DCC have confirmed receipt of the first travel plan and traffic monitoring contributions (£7,390 and £2,960 on 30/04/19).

- Sherwood Lodge, Bolsover (17/00615/FUL) Retail development. Store recently opened. Obligations due prior to occupation:
 - Art £5000 (now received)
 - Highways £150,000 to DCC
 - Travel Plan £5000 to DCC, £1000 prior to occupation and on each anniversary x 4 years. DCC have invoiced the developer direct.

- Brookvale Shirebrook Keepmoat (14/00594) First phase 153 dwellings now completed. Second phase for 200 dwellings recently commenced. Highways/GP surgery/Bus sum £879,000 received by BDC. £310,000 of this amount now transferred to DCC for initial highway improvements.

- Station Road, Langwith Junction (16/00530/FUL). Permission for 68 dwellings. Trigger for payment is 34 dwellings occupied. Now assumed to have been reached. Payment has been requested from developer and is awaited:-
 - £52,000 informal POS - to upgrade Langwith Rec
 - £16,000 health – GP practice at Langwith

- Mansfield Road Tibshelf (13/00182/OUT). Permission for 170 dwellings. At 127 occupations. First phase education payments have been received by DCC in March 2018 (£145,171 and £167,274). Second phase education payments requested and awaited (£284,470 and £327,784). Informal play equipment now provided on site to max value of £123,590. First stage payments have been received for:-
 - Formal sport and recreation in the parish £81,394, and
 - Health, Staffa Tibshelf Surgery £33,249.Second phase payments are now due, have been requested and are awaited (Trigger was 120 dwellings occupied). These include:
 - Formal sports £82759
 - Health £33,807.

- Doe Hill Lane Tibshelf. Permission for 57 dwellings (15/00438/FUL). Approaching completion. All S106 sums now received and obligations discharged. These included:
 - £72,236 open space play facilities (£27,101 of which for maintenance);
 - £10,176.20 art.
 - DCC have confirmed receipt (02/10/19) of education sums:
 - £137,422 and £155,301.

- Rosewood Lodge Farm, Alfreton Road, South Normanton (14/00531/OUT). Permission for 144 dwellings. Obligations are triggered prior to occupation of any dwelling and the following have now been received:-
 - Sports/rec £132,357.48
 - Education £68,605.15
 - Health £80,141.59.

- Art Scheme (to £10,000) with timetable for implementation. Not yet formally submitted but the developer is in discussions with the Arts Officer.
 - Affordable – to be provided only if delivery targets not met for market housing.
- Thornhill Drive, South Normanton (17/00148/OUT). Permission for 29 dwellings. Construction has recently commenced on this site. S106 obligations include:-
 - Sports £33,264 at 15 dwellings occupied
 - Play £28,260 at 15 dwellings occupied
 - Art £10,000 at 15 dwellings occupied
 - Affordable housing 10% at 23 dwellings
 - Health £10,955 at 15 dwellings occupied.

2 Conclusions and Reasons for Recommendation

- 2.1 This report is for information to give Members the opportunity to assess the effectiveness of the monitoring procedures as well as to receive up-to-date information on ongoing cases where planning obligations are involved.

3 Consultation and Equality Impact

- 3.1 There has been no public consultation in respect of this report, and there are no negative equality impacts identified. Officers consider that increasing member oversight of compliance with s.106 legal agreements should promote **equality** of opportunity for local residents through ensuring obligations are met.

4 Alternative Options and Reasons for Rejection

- 4.1 Reporting the status of current s.106 legal agreements to Planning Committee address recommendations made in the 2016 audit report and has been agreed by members of the Planning Committee. Therefore, officers have not considered alternative options.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 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 making. 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 s.106 legal agreements are not sufficiently robust.

5.2 Legal Implications including Data Protection

- 5.2.1 There are no data protection implications insofar as s.106 legal agreements are part of the statutory planning register and are therefore public documents. S.106 of the 1990 Act provides the legal framework for the acceptance and discharge of s.106 legal obligations and the procedure notes address the key legislative provisions of this section of the 1990 Act.

5.3 Human Resources Implications

5.3.1 None.

6 Recommendation

6.1 That the Planning Committee notes this report.

7 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: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed	Yes
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	<ul style="list-style-type: none">• Unlocking Our Growth Potential (main aim);• Providing our Customers with Excellent Services• Supporting Our Communities to be Healthier, Safer, Cleaner and Greener;• Transforming Our Organisation.

8 **Document Information**

Appendix No	Title
1	Financial Spreadsheet
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 Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
n/a	
Report Author	Contact Number
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