

Bolsover District Council

Planning Committee

4th November 2020

Update on Section 106 Agreements

Report of the Planning Manager

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 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. The report is intended to be quarterly but as consequence of covid-19 and staff changes at the start of the year the last S106 update report was 8th January 2020.
- 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 that necessary infrastructure will not be provided and there would be 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 £1,466,893.63.
- 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 – this has previously been reported to Planning Committee but the Arts Officer is still awaiting a response from the Developer on this matter. Alternative contacts representatives are now being in order to secure a response).
 - 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. £36,672.75 (of which £32,277 has been committed to a project) 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 deadline for spending sums b – d above has been previously report to Planning Committee. The Arts Officer and Leisure Officer are aware of the spending deadline and are working with the Parish Council to deliver schemes. However there is now very little time remaining to spend the money before it needs to be returned).
- 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 08/01/2020 :-
- | | | |
|-------------------|--------------|----------|
| Langwith Junction | Health | £16,000 |
| Langwith Junction | Play | £52,000 |
| Oxcroft Lane | Sport | £128,710 |
| High Ash Farm | Play | £10,945 |
| High Ash Farm | Education | £18,195 |
| High Ash Farm | Footpath | £12,587 |
| Skinner Street | Footpath | £30,464 |
| Skinner Street | Biodiversity | £15,036 |

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. 12 dwellings occupied so far 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.
 - Highways £111,450.34 payment for improvements to Treble Bob roundabout; £39,364.75 roundabout contribution at 60th dwelling occupied.

- Broad Lane, Hodthorpe (14/00518/OUT) 101 dwellings. New site commenced. No occupations yet. Obligations not yet triggered include:-
 - Sport £888 per dwelling before 70 dwellings occupied.
 - Play £747 per dwelling, scheme before 10th and provided before 70th dwelling.
 - Art £984 per dwelling at 70 but less the cost of natural stone boundary walling.
 - Affordable Housing 10% on site at 70 dwellings.
 - £50,000 to use on the Social Club before 10 dwellings occupied.

- The Edge, Mansfield Road, Clowne (12/00529/OUTMAJ). 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. 38 are now occupied. Obligation triggers have been reached and payments received this year (see 1.7 above) for Play, Education, Footpath link, and the market housing delivery targets met discharging the Affordable Housing obligation. However the £10,000 art obligation is currently outstanding.

- Creswell Road Clowne (14/00603/FUL) permission for 28 dwellings. 14 dwellings occupied so far but trigger not reached (20 occupations – formal leisure contribution £24,144).

- Oxcroft Lane, Bolsover (15/00076/OUT). Permission for 127 dwellings. 4 occupations so far. Obligations have been largely paid in advance. The following have been received this year:-
 - £128,710 Sport by BDC 10/03/2020; and by DCC:
 - £316,111 and £38,105 Education 06/03/2020
 - £167,361 Highway improvements 02/09/2020
 - £2,500 Travel Plan 02/09/2020
 - £55,787 Mill Lane improvements 02/09/2020

The following are outstanding:-

- Fund up to 3 TRO's to value of £5000 each.
 - Play Space to accord with scheme.
 - Affordable Housing 10% on site in accordance with the scheme approved before 70% of market dwellings occupied.
- Mooracre Lane Bolsover (17/00234/FUL). Permission for 212 dwellings. 83 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 first triggers were 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). DCC have agreed to a time extension for payment of the 60 unit trigger education and highway obligations until 01/12/2020 due to Covid-19.

- Sherwood Lodge, Bolsover (17/00615/FUL) Retail development. Store now opened. The following sums have been received this year:-
 - £37 interest (plus £5,097) Art
 - £151,613 Highway improvements to DCC
 - £1000 Travel Plan monitoring to DCC (1 of 5)
- Blind Lane, Bolsover (16/00463/OUT, 18/00481/REM) permission for 218 dwellings. New site commenced. No occupations to date. Obligations not yet triggered include:-
 - Sport £191,250 50% at 150 dwellings, 50% at 200.
 - Play on site and £80,000 to improve Houghton Rd rec', at 50 dwellings.
 - Education £179,618 Phased at: 25 dwellings 10%, invitation of tenders for education works 40%, appointment of contractor 50%.
 - Affordable 30% at 20% below market value.
 - Health £81,562 Phased at: 25 dwellings 10%, on notice health care works will be undertaken, 40%, appointment of contractor 50%.
- Site adjacent to Pattison Street Shuttlewood (19/00083/FUL). Permission for 78 dwellings. 11 occupations to date. Obligations not yet triggered 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.
- Brookvale Shirebrook Keepmoat (14/00594/OUT) First phase 153 dwellings now completed. Second phase for 200 dwellings with 35 occupations on that phase. All s106 obligations discharged but central POS play area and multiuse games area is to be provided shortly at 200 occupations on site (by condition rather than S106).
- Station Road, Langwith Junction (16/00530/FUL). Permission for 68 dwellings. Trigger for payment is 34 dwellings occupied. Now at 50 occupations so the trigger has been reached. Payments have been received as reported at 1.7 above and all obligations have been discharged.
- Mansfield Road Tibshelf (13/00182/OUT). Permission for 170 dwellings. All units now completed and occupied and all obligations have been discharged. Not previously reported to Committee on 08/01/2020 but the Second phase payments for the following were received 20/12/2019:-
 - Formal Sports and Recreation in the parish, payment 2 of 2 £82,759.
 - Health, Staffa Tibshelf Surgery, payment 2 of 2 £33,807.
 - Infant and Junior £284,470.74 (to DCC)
 - Secondary £327,783.66. (to DCC).
- Rosewood Lodge Farm, Alfreton Road, South Normanton (14/00531/OUT). Permission for 144 dwellings. Now at 50 occupations. Obligations are triggered prior to occupation of any dwelling and the following have already been received and reported: Sports/rec, Education, Health. The following are outstanding:-
 - 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. 6 dwellings occupied so far. S106 obligations not yet triggered 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 The report is for information to 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.

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 Planning Committee notes this report.

7 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: <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></p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>Has the relevant Portfolio Holder been informed</p>	Yes
<p>District Wards Affected</p>	All
<p>Links to Corporate Plan priorities or Policy Framework</p>	<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
<p>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)</p>	
Report Author	Contact Number
Steve Phillipson	Ext. 2248

APPENDIX 1 – FINANCIAL SPREADSHEET

Funding of budgets from S108 holding accounts - B9220563 • B9180561															
Hide for	Related Cost Centre	Description	Planning Application Number	Related Cost Centre	Exp and Income Code	Proj Code	Expenditure Allocated current year	Unspent expenditure w/d back in	Actual Expenditure in year	Income Received	Restriction Balance at 31/3/21	B9180561 Conciliation Balance at 31/3/21	Use by	Allocated in future years	Comments
50	G171	Affordable Housing Totals	14/00057/OUTMAJ	G171	4093 9123	4042	0.00	0.00	0.00	0.00	0.00	0.00	0.00	19.03.25	5 years (No legal clawback - but could still be challenged if not spent)
	G171	High Ash Farm, Clowne		G171	4093 9123		18,196.00	(0.88)	18,195.12		0.00	0.00	0.00	19.03.25	
	G171	Education Totals	05/00735	G171	4087 9114	4023	18,196.00	(0.88)	18,195.12		0.00	0.00	0.00	28.05.19	5 years from receipt
47	G125	C The Brambles, Doe Lea	14/00226/FUL	G125	4087 9114	4023	4,361.00	(4,361.00)	0.00		(4,361.11)	4,361.11	28.05.19		5 years from receipt
61	G125	C Woodside Stables, Rotherham Rc, Clowne	14/00226/FUL	G125	4087 9114	4029	6,939.00	(6,939.00)	0.00		(6,939.67)	6,939.67	14.01.21		5 years from receipt
66	G125	? Carter Lane West South Normanton	14/00551/FUL	G125	4087 9114	4034	5,165.00	(5,165.00)	0.00	(0.20)	(5,165.20)	5,165.20	07.12.22		5 years from payment of sundry debtor
79	G125	? Sherry House Farm, Clowne	15/00455/FUL	G125	4087 9114	4030	16,572.00	(16,572.00)	0.00		(16,572.00)	16,572.00	18.04.22		5 years from receipt
84	G125	? Spa Croft, Doe Hill Lane, Tibshelf	17/00209/FUL	G125	4087 9114	4037	10,176.00	(10,176.00)	0.00		(10,176.20)	10,176.20	22.03.24		5 years from receipt
86	G125	Former Sherwood Lodge Site, Bolsover	17/00615/FUL	G125	4087 9114	4039	37.00	(37.00)	0.00		(37.00)	37.00	28.10.19		5 years from receipt
	G125	Percent for Art Totals		G125	4087 9114		43,250.00	(43,250.00)	0.00	0.00	0.00	(43,251.18)			no clawback on remaining amount
29	G170	C The Brambles, Doe Lea	05/00735	G170	4090 9120	4006	18,023.00	(18,023.00)	0.00	(0.71)	(18,023.65)	18,023.65			5 years from receipt
62	G170	C Woodside Stables, Rotherham Rc, Clowne	14/00226/FUL	G170	4090 9120	4029	36,673.00	(4,395.00)	32,278.00		(4,395.75)	34,011.21			5 years from receipt
67	G170	? Carter Lane West South Normanton	14/00551/FUL	G170	4090 9120	4034	2,711.00	(446.00)	2,265.00		(445.70)	07.12.22			5 years from payment of sundry debtor
77	G170	? Babbington St, Former Allotment Gardens, Tibshelf	03/00755/FULMAJ 0	G170	4090 9120	4031	0.00	0.00	0.00		0.00	21.03.22			no clawback per SP
82	G170	? Meridian Close, Bolsover	17/00314/FUL	G170	4090 9120	4035	24,547.00	(24,547.00)	0.00		(24,547.95)	24,547.95	22.12.22		5 years from receipt
83	G170	? Mansfield Road, Tibshelf	13/00182/OUT	G170	4090 9120	4036	81,394.00	(81,394.00)	0.00		(81,394.00)	81,394.00	20.12.24	21/22 part	5 years from the date of receipt of the final payment
85	G170	? Rosewood Lodge Farm, South Normanton	14/00531/OUT	G170	4090 9120	4038	129,347.00	(126,252.00)	3,095.00		(126,252.25)	129,347.00	21.05.24		5 years from receipt
89	G170	? Oxcroft Lane, Bolsover	15/00076/OUT	G170	4090 9120	4041	0.00	0.00	0.00		(128,710.00)	10,03.25	21/22		5 years (No legal clawback - but could still be challenged if not spent)
	G170	Outdoor Sport (Formal) Totals		G170	4090 9120		292,695.00	(255,058.00)	37,637.00	0.00	(10,643.77)	(466,528.30)			no clawback
35	G126	R Heritage Drive, Clowne (GL Homes)	BOL9504/0126	G126	4091 9121	4019	10,644.00	(10,644.00)	0.00		(6,284.87)	6,284.87			no clawback
38	G126	R Hazelmere Park (Skinner St), Creswell	04/00066	G126	4091 9121	4002	6,285.00	(6,285.00)	0.00		(6,284.87)	6,284.87			no clawback
42	G126	R Rangenwood Rd Development, S/W	00/00378	G126	4091 9121	4005	4,465.00	(4,465.00)	0.00		(4,464.73)	4,464.73			no clawback
45	G126	C The Brambles, Doe Lea	05/00735	G126	4091 9121	4023	5,824.00	(624.00)	5,200.00		(624.53)	5,200.00			no clawback
63	G126	C Woodside Stables, Rotherham Rc, Clowne	14/00551/FUL	G126	4091 9121	4029	195.00	(195.00)	0.00		(195.20)	195.20	14.01.21		5 years from receipt
68	G126	? Carter Lane West South Normanton	14/00551/FUL	G126	4091 9121	4034	12,766.00	(12,766.00)	0.00		(12,766.66)	12,766.66	07.12.22		5 years from payment of sundry debtor
70	G126	? Thurgaton Way (phase 2)	14/00065/OUT	G126	4091 9121	4033	2,015.00	(2,015.00)	0.00		(2,015.16)	2,015.16	01.08.22		5 years from receipt assumed
75	G126	? Sherry House Farm, Clowne	15/00455/FUL	G126	4091 9121	4030	12,107.00	(9,121.00)	2,986.00		(9,121.13)	9,121.13	06.02.22		5 years from receipt
76	G126	? Babbington St, Former Allotment Gardens, Tibshelf	03/00755/FULMAJ 0	G126	4091 9121	4031	0.00	0.00	0.00		0.00	0.00	21.03.22		no clawback per SP
81	G126	? Meridian Close, Bolsover	17/00314/FUL	G126	4091 9121	4035	27,475.00	(27,475.00)	0.00	(0.69)	(27,475.69)	27,475.69	22.12.22		5 years from receipt
84	G126	? Spa Croft, Doe Hill Lane, Tibshelf	17/00209/FUL	G126	4091 9121	4037	27,856.00	(27,856.00)	0.00		(27,856.00)	27,856.00	22.03.24		5 years from receipt
87	G126	? Station Rd, Langwith Junction	16/00530/FUL	G126	4091 9121	4040	52,000.00	(52,000.00)	0.00		(52,000.00)	52,000.00	30.01.25	20/21	5 years from receipt
91	G126	? High Ash Farm, Clowne	14/00057/OUTMAJ	G126	4091 9121	4042	0.00	0.00	0.00		(10,945.39)	10,945.39	19.03.25	21/22	5 years (No legal clawback - but could still be challenged if not spent)
	G126	Open Space (Informal) Totals		G126	4091 9121		161,632.00	(153,446.00)	8,186.00	0.00	(15,106.50)	(149,284.92)			5 years from receipt
72	G226	C Brookvale - South Shirebrook	14/00551/FUL	G226	4118 9170	4028	569,000.00	(569,000.00)	0.00		(569,000.00)	569,000.00	??		5 years from completion not receipt - SP email update 26/06/20
59	G226	C High Ash Farm, Clowne	14/00057/OUTMAJ	G226	4118 9170	4042	12,868.00	(0.81)	12,867.19		(30,463.66)	30,463.66	??	Budget yr?	5 years (No legal clawback - but could still be challenged if not spent)
92	G226	C Land at Skinner Street, Creswell	15/00368/FUL	G226	4118 9170	4043	0.00	0.00	0.00		(30,463.66)	30,463.66	??		5 years from receipt
	G226	Highways Totals		G226	4118 9170		581,868.00	(569,000.81)	12,867.19	(30,463.68)	0.00	(599,483.68)			5 years from receipt assumed
73	G227	? Thurgaton Way (phase 2)	14/00065/OUT	G227	4119 9171	4033	30,132.00	(30,132.00)	0.00		(30,132.00)	30,132.00	01.08.22		5 years from receipt
83	G227	? Mansfield Road, Tibshelf	13/00182/OUT	G227	4119 9171	4036	33,249.00	(33,249.00)	0.00		(33,249.00)	33,249.00	20.12.24	21/22 part	5 years from receipt
85	G227	? Rosewood Lodge Farm, South Normanton	14/00531/OUT	G227	4119 9171	4038	80,141.00	(80,141.00)	0.00		(80,141.59)	80,141.59	21.05.24		5 years from receipt
88	G227	? Station Rd, Langwith Junction	16/00530/FUL	G227	4119 9171	4040	0.00	0.00	0.00		(16,300.00)	16,300.00	30.01.25	21/22	5 years from receipt
	G227	Health Totals		G227	4119 9171		143,622.00	(143,622.00)	0.00	0.00	0.00	(193,328.59)			5 years from receipt
94	G031	Land To The Rear Of Nos 34 To 54 Skinner Street, (Biodiversity Totals	19/000475/FUL	G031	4128 9122	4043	0.00	0.00	0.00	(15,035.96)	(15,035.96)	(15,035.96)			
	G031	Biodiversity Totals		G031	4128 9122		1,240,883.00	(1,164,277.69)	76,605.31	(45,499.64)	(15,106.50)	(1,466,393.63)			