

SALISBURY CITY COUNCIL

Subject : Section 106 Planning Obligations
Committee : Finance and Governance Committee
Date : 31 Jul 2023
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1. Report Summary

- 1.1. This report describes Section 106 monies, their purposes, actual receipt by the Council, and the way these monies have been administered and accounted for since 1 April 2021.
- 1.2. This method of administration ensures that the Council can effectively discharge its legal responsibilities following the introduction of Side Agreements by Wiltshire Council during 2020/21, which exist alongside the planning obligations as specified in the Section 106 Agreements.

2. Background

- 2.1. Under Section 106 of the Town and Country Planning Act 1990, when granting planning permission for a development, local planning authorities often impose planning obligations on the party promoting the development. These obligations are usually contained in Section 106 Agreements or Planning Agreements which are separate legal agreements that sit alongside the planning permission. Such agreements will, generally, bind the land to which the planning permission relates – so anyone who owns that land will be bound by the obligations.
- 2.2. There are various types of planning obligations contained within Section 106 Agreements; frequently encountered obligations which are applicable to parish councils, include:
 - the provision of affordable housing;
 - a financial contribution towards social, education or recreational facilities;
 - the construction of recreational facilities – such as a playground;
 - a requirement to include renewable energy sources within the development.
- 2.3. The local planning authority which covers Salisbury City Council (SCC) is Wiltshire Council (WC), and it is with the latter that Section 106 Agreements are made with developers.
- 2.4. On 19 August 2020, the Responsible Finance Officer (RFO) and City Clerk (CC) met with the Chairman and Vice Chairman of this Committee, plus the Leader of the Council, to discuss the Council's current Section 106 financial position, its current obligations and spending plan, recent side agreements with Wiltshire Council (WC), and the future proposed management of current/future Section 106 funds.
- 2.5. On 2 November 2020, this Committee met and agreed a revised budgetary management regime for SCC's Section 106 funds, as detailed within this report.

3. Section 106 Transfers

- 3.1. As a condition of the Asset Transfer, which took place on 1 April 2017, various areas of land and property were transferred to SCC by WC, and alongside these assets, Section 106 development funding covering 33 separate planning obligations totalling £581,471.28 was also transferred.
- 3.2. Subsequently to this, in 2019/20, WC transferred a further £40,666 of Section 106 monies covering a further 8 separate planning obligations.
- 3.3. With effect from 2020/21, WC have determined that any Section 106 monies to be transferred to SCC must be accompanied by a Side Agreement; such Side Agreements are intended to “allow SCC to receive a transfer of the Contribution {in full / in part} from the Section 106 Agreement in relation to the provision of {the obligation}”.
- 3.4. In addition to providing a legal tool for the transfer of the monies, the Side Agreements place several obligations on SCC, most notably to:
 - Obtain prior approval for any proposed use of monies from the WC District Planning Officer / Head of Development Services;
 - Use the Contribution only for the Purpose and to the reasonable satisfaction of Wiltshire Council;
 - Complete the works to the reasonable satisfaction of Wiltshire Council;
 - Maintain the works to the reasonable satisfaction of Wiltshire Council;
 - Permit in perpetuity public access to any land that has benefitted from the use of the Contribution;
 - Within 10 working days of any reasonable written request by WC to provide information on the amount of the Contribution held, the amount expended and the purposes on which it has been expended.
- 3.5. In 2020/21, WC transferred a further £196,798.87 of Section 106 monies covering a further 4 separate planning obligations: all such obligations relating to the developments at Rowbarrow, Heronswood and Downton Road.
- 3.6. In 2021/22, WC transferred £31,120.67 of Section 106 monies covering the Avenue Cemetery, and in 2022/23, Laverstock and Ford Parish Council transferred £26,894.12 of Section 106 monies to SCC, again for application at the Avenue Cemetery.
- 3.7. Total sums therefore transferred to SCC, as at 31.03.23, are £876,951.48.

4. Accounting for Section 106 Funds

- 4.1. Up until 2019/20, SCC’s balance sheet did not differentiate between usable general reserves and specified reserves, such as Section 106 funds.
- 4.2. From 2020/21, specification was introduced following liaison with WC over the introduction of the Side Agreements. SCC’s balance sheet reserves were renamed and re-profiled to enable Section 106 monies to be readily identifiable as specified reserves, and furthermore, to be identified as either Revenue Reserves or Capital

Reserves. Such clarity and specification within the Balance Sheet ensures that all funds can be administered against approved activities and projects, and thereby accurately accounted for in line with the new Side Agreements.

5. Application of Section 106 Funds

- 5.1. Since 1 April 2017, up until 31 March 2023, SCC has received a total of £850,057.36 in Section 106 monies transferred from WC, and £26,894.12 from Laverstock and Ford Parish Council, covering obligations arising over 45 applications. Each obligation has a specific purpose against which monies can be applied, as well as a defined deadline by which such application must be complete. Such timeframes range from a few years to several decades.
- 5.2. The time management of the use of funds is crucial; failure to spend funds in accordance with the specified purposes and within the given timeframe can result in the funds being subject to repayment to WC.
- 5.3. The Appendices provide a summary of the Section 106 funds received to date, as follows:
 - A –Obligations Completed
 - B - Obligations in Progress over Time
 - C – Obligations with Action Plans Pending
- 5.4. Appendix A provides a summary, by financial year, of planning obligations met by the Council with a brief outline of the community or infrastructure project for which the contributions were used. The total of funds applied during the years 2017/18 to 2022/23 is £350,202.57
- 5.5. Appendix B provides a summary of planning obligations in progress currently being a met by the Council with a brief outline of the community or infrastructure project for which the contributions are being used, along with the first 5 years of the timeline for which maintenance funds are scheduled. The total of funds being applied is £189,593.84.
- 5.6. Appendix C provides a summary of planning obligations either awaiting the completion of a land transfer from Wiltshire Council, or the completion of talks with a Residents' Association over final details, or the relevant date for the obligation purpose to become due. The total of funds pending is £337,155.07.

6. Future Section 106 Funds Expected

- 6.1. Under the Ashley Road Open Space and Fisherton Recreation Ground and land at The Maltings and Central Car Park planning application PL/2021/03601, the Section 106 Obligation contains within it the Salisbury River Park Phase 1 Scheme Maintenance Contribution. This contribution has been paid over to the Environment Agency, who in due course, will transfer the bulk of those funds to SCC. It is expected that these funds will total over £600,000.
- 6.2. The obligation under this Agreement is for the maintenance of the Salisbury River Park Phase 1 Scheme for a 50-year period. To maintain the Park means the maintenance of the area at Ashley Road, and the Maltings and Coach Station development area. The maintenance that will be required at these sites includes:

Ashley Road
New flood defence embankment, mowing, filling holes and repairing turf
Grass cutting in and around wetland
Litter picking for new shingle beach area
Hedge maintenance
Shrub bed maintenance
Mulching weeds
Leaf clearance
Tree inspections
Summerlock stream off take channel, repairing and removing small debris
New wetland area swales, stream and woodland repairing and removing debris
Maintaining 2 new boardwalk access across wetland area
Maintaining new lengths of cycle way and footpath
Maintaining new retaining wall length 70 metres
New amenity facilities, beach, picnic area, platforms, benches and info boards
Repairing and maintaining fencing and rails
Small flap valves, repairing, inspecting and greasing seals.
Maintaining new flood defence drainage dry side

Maltings and Coach Station
Modification to river channel adjacent to coach park, removing debris
Maintaining new retaining wall length 95 metres
Mill Stream channel, repairing and removing debris
Pocket park play area inspections
Pocket park grass cutting
Pocket park repairs and maintenance
Pocket park litter and bin clearance
River corridor amenity improvements, viewing area and shingle beach
Tree inspections
Maintaining fencing and railings
Small flap valves, repairing, inspecting and greasing
Shingle beech litter and bin clearance
Hedge maintenance
Shrub bed maintenance
Leaf clearance
Mulching weeds

6.3. Detailed analysis of these obligations has been undertaken and a project plan and expenditure profile has been undertaken, with costs assigned to ensure that the adequate and appropriate upkeep, repair and maintenance of these sites can be achieved over the first 20 years, and that these are fully funded by the Section 106 funds expected to be receivable.

7. Recommendation

It is recommended that the Committee:

- 7.1. Note this report and the planning obligations contained within Section 106 Agreements as shown in Appendices A, B and C.

8. Background Papers: Appendices A, B and C (Doc 89743)

9. Implications:

- 9.1. **Financial:** As shown in this report
- 9.2. **Legal:** As shown in this report
- 9.3. **Personnel:** None in relation to this report
- 9.4. **Environmental Impact:** None in relation to this report