

SALISBURY CITY COUNCIL

Report

Subject: Latest position on s.106 receipts
Committee: Finance and Governance Committee
Date: 28 October 2024
Author: Steve Bishop, Responsible Finance Officer (RFO)

1. Report Summary

- 1.1. This report sets out the latest position on total s.106 contributions held by the Council. Officers last reported this information to the Finance and Governance Committee in July 2023.
- 1.2. Under s.106 of the Town and Country Planning Act 1990, local planning authorities can impose planning obligations on the party promoting the development (the 'developer'). These obligations are usually contained in section 106 agreements or 'planning agreements' which are separate legal agreements sitting alongside the planning permission.
- 1.3. Such obligations are often accompanied by sums of money from the developer to whichever party is legally required to discharge the obligation. Since the City Council's formation in 2009 there have been sixty-four s.106 agreements between the Council, the local planning authority Wiltshire Council and the respective developers. Many of these agreements resulted in s.106 contributions being paid by the developer to the Council. Some have been discharged and the monies spent, some remain active with ongoing obligations and sums unspent. This report sets out the current position.

2. Policy Considerations

- 2.1. The Council has to keep s.106 contributions separate from the revenue account (general reserve) in order to ensure the obligations are met and, in exceptional cases, to be able to repay the contribution if it fails to discharge its obligations.
- 2.2. The Council has experienced diminishing general reserve balances in recent years, partly due to the lack of transparency between its general reserve and its three other ringfenced funding 'pots' (s.106 receipts, community infrastructure levy receipts and capital receipts). The current level of general reserve is well below the Council's policy objective of £1.3m and the £1.34m estimated by officers during 2024/25 budget-setting partly due to confusion between general reserve and other funding pots. This report helps to draw a clear distinction between the total value of s.106 funds which must be utilised for specific purposes, and the general reserve which has no such restrictions.

3. The current position

- 3.1. The Council's s.106 records were tailored to a particularly way of working, requiring indepth knowledge. Without the benefit of a handover between the previous longstanding RFO and the new RFO, the previous complex arrangement for s.106

accounting has not been continued. Instead, there has been a new simpler approach adopted for accounting for s.106 agreements.

- 3.2. Senior officers reviewed all s.106 listed by the previous RFO as being un-discharged. The actual status of each was ascertained. Any s.106 agreements whose obligations had been fully discharged were marked as 'complete'. Any s.106 agreements with obligations now embedded in standard SCC operations were marked as 'complete'. All other s.106 agreements with un-discharged obligations are marked as 'live' and are being expedited. All 'live' agreements and their respective receipts, which total £995,110, are listed in **Appendix A**.
- 3.3. Officers continue to discharge s.106 obligations of live agreements, but often at an apparently slow pace due to the number of stakeholders involved. For example, all the Rowbarrow s106 projects have been bundled together under the Council's Z32 capital scheme. Officers have already spent some of the associated sums on tree planting and are working with residents and ward councillors on designing an improvement scheme opposite the shop on site. The draft design is currently with a consultant surveyor to verify the costs.
- 3.4. It is worth noting that in March this year the Council received its largest ever s.106 receipt of £716,000 to fund its maintenance obligations at the River Park for the next 50 years. These obligations will commence after the Council formally receives the site from the developer.
- 3.5. Several incomplete s.106 records need to be checked and brought up to date urgently. A number of the un-discharged agreements have been recorded with past expiry dates. These require urgent review in order to ensure the obligations can be completed as soon as possible. Officers have been tasks with reviewing all live agreements to update the Council's records and ensure the Council can meets its legal obligations.

4. **Recommendations:**

- 4.1. The Committee notes the number of 'live' s.106 agreements and the extent of the associated obligations.
- 4.2. The Estates Manager should review all live s.106 agreements, acquire any missing paperwork, update Council records, confirm all trigger dates and expiry dates; and, assist the RFO to ensure all sums are correctly accounted for.

5. **Background Papers:**

None.

5.1. **Implications**

- . **Financial:** As shown in this report
- . **Legal:** As shown in this report.
- . **Personnel:** Nil in relation to this report
- . **Environmental Impact:** Nil in relation to this report
- . **Equalities Impact Statement:** Nil in relation to this

APPENDIX A

SECTION 106 FUNDS FOR 'LIVE' AGREEMENTS WITH UNDISCHARGED OBLIGATIONS

June 2024 Refs	Planning App	Capital / Revenue	Receipt £	Receipt date	Site Location	Description	Expiry Date
S49	S/1995/0238-C	C/R	£67,668	26/10/20	Rowbarrow/Heronswood	Providing, improving and/or maintaining adult and children's sport, play or recreation facilities or installing and / or maintaining equipment in connection with such facilities on land relevant in planning terms to the development {Burford Lane}.	22/09/2021 (TBC)
S51	S/2005/0980-A	C/R	£68,148	26/10/20	Downton Rd/Rowbarrow	Providing, improving and/or maintaining adult and children's sport, play or recreation facilities or installing and / or maintaining equipment in connection with such facilities on land relevant in planning terms to the development {Rowbarrow}.	22/09/2021 (TBC)
S52	S/2011/0207-A	C/R	£47,600	26/10/20	Rowbarrow	To purchase new recreational equipment or improve an existing facility {Rowbarrow}	22/09/2021 (TBC)
S55	S/1994/1488-C	R	£45,550		Queen Elizabeth Gds	Maintenance of footbridge and ancillary works (Spend on demand)	01/01/2050
S57	S/1995/0238-B	C/R	£18,614		Rowbarrow/Heronswood	Providing improving and/or maintaining childrens sport play or recreation facilities.	16/07/2050
S62	S/2013/0090-A	R	£4,636		Wagstaff Way, former Pembroke Park School	Maintenance of Woodland area at Pembroke Road	01/08/2050
S63	13/0673/OUT	R	£26,894		Land to east of A345 & west of Old Sarum, Longhenge	Providing or improving cemetery facilities on land or cemeteries as being directly relevant to the development; spend on path maintenance and improvements at Avenue Cemetery.	(TBC)
S64	PL/2021/03601	R	£716,000	19/3/24	Ashley Rd open space, Fisherton Rec Grnd, Maltings & Central CP	River Park maintenance for 50 years	(TBC)

£995,110