

SALISBURY CITY COUNCIL

Report

Subject : s106 Receipts Update
Committee : Finance Committee
Date : 1st September 2025
Author : Mostyn Coombes, Estates Manager

1. Report Summary:

- 1.1. This report provides a review of all live Section 106 (S.106) agreements held by Salisbury City Council.
- 1.2. It outlines the obligations attached to these agreements, the associated risks when spending S.106 funds, and gives an assessed risk rating to guide future financial decisions. The report also highlights past and potential future expenditures aligned to each agreement and proposes recommendations for appropriate actions, including transfers into general reserves.

2. Background:

- 2.1. S.106 agreements are legally binding planning obligations entered into between local authorities and developers, typically associated with planning permissions for new developments.
- 2.2. These agreements specify how funds are to be used and often include strict deadlines and restrictions. Failure to comply with these terms can result in legal challenges, including potential repayment of funds.

3. Key Considerations:

3.1. Legal and Financial Risk

- 3.1.1. Misuse or failure to spend S.106 funds within the prescribed period can lead to legal claims by developers for repayment.
- 3.1.2. Some firms actively identify councils that have failed to comply with S.106 terms and sell this information to developers, increasing the risk of legal exposure.

3.2. Governance and Accountability

- 3.2.1. Each agreement must be individually assessed based on its terms, expiry dates, and current usage.
- 3.2.2. In cases of ambiguity, where a definitive interpretation of the agreement is required, the final arbiter is the Chief Executive Officer in consultation with the RFO and relevant head(s) of service”.

3.3. Data Gaps and Reliability

- 3.3.1. Some historical data passed from the previous Responsible Financial Officer (RFO) has been used without original documentation to verify accuracy as it could not be located by either Salisbury City Council or Wiltshire Council.
- 3.3.2. In cases such as the Rowbarrow development, there are discrepancies between amounts listed in the agreements and the amounts received by Salisbury City Council.
- 3.3.3. It is therefore unclear what funds Salisbury City Council received from Wiltshire Council for certain aspects of the development. Wiltshire Council have confirmed that they have no records of the transfer.

4. Risk Assessment Framework

- 4.1. To assist in determining how funds may be used or transferred, the following risk levels are applied:

Detail	Risk Level	Rationale
Sums under £1,000	Low	Officer time outweighs financial value; unlikely to be challenged
Agreements referencing "maintenance"	Low	Ongoing use aligns with purpose; reduces challenge risk
Agreements with no repayment clause	Low	Proper usage mitigates risk
Expiry passed with 5month claim window	Low	Limited likelihood of developer challenge
Unilateral undertakings	Medium	Usage before expiry offers some protection
Incorrect or ambiguous expiry dates	Medium	Clauses may delay enforcement periods
Developer or company dissolved	Medium	Unlikely to pursue claims
Agreements referencing "provision"	High	Specific terms restrict flexibility in expenditure
Significantly late in discharging obligations	High	Possibility of having to repay receipt

5. Observations and Issues Identified

- Several agreements are close to or past expiry, raising the risk profile.
- In some cases documentation is missing or incomplete, particularly in older cases.

6. Wards generating S.106 money

5.1. For information only, the unspent s.106 receipts arose from developments in the following wards:

Ward	SCC internal reference number	Balance at the end of financial year 2024/25
Harnham East	S49	£49,868
Harnham East	S51	£68,148
Harnham East	S52	£47,600
Harnham East	S57	£18,614
St Edmund's	S55	£43,330
Fisherton and Bemerton Village	S62	£4,636
St Paul's St Edmunds	S64	£695,000
Total		£927,196

6. Recommendations

6.1. It is recommended that the Committee:

6.1.1. Notes the current status of S.106 receipts and the associated risk levels as outlined in Appendix A (S.106 Agreement Review)

6.1.2. Notes and supports the proposed next steps as outlined in Appendix B

6.1.3. Approves the transfer of £4,636 from the s.106 receipts pot regarding S62 Wagstaff Way to the General Reserve in recognition that all obligations have either been discharged or incorporated into the Council's 'business as usual' base budgets and work schedules.

7. Implications:

7.1. Financial:

Potential recovery of unused funds or reallocation into general reserves, subject to risk analysis. Legal liabilities exist for improper use.

7.2. Personnel:

Ongoing officer time is required for document review, risk assessments, and stakeholder engagement.

7.3. Legal:

Strict compliance with agreement terms is essential to mitigate legal risk from developers or third parties.

7.4. Equalities Impact:

Future use of S.106 funds should be aligned with the Council's Equality and Diversity objectives where possible.

Appendix A

Salisbury City Council S.106 Live Agreement Review:

1. Rowbarrow – S/1995/0238-C

Site Location	Rowbarrow/Heronswood
Description	Information provided by former RFO: 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}
June 2024 internal reference	S49
Planning application	S/1995/0238-C
Capital revenue	C/R
Receipt date	26/10/20
Expiry date	22/09/21 (information provided by former RFO)
Key information in agreement	12. & 23. The commuted sum will be returned by the council to the party who made the payment at the expiry date of the period of 5 years from the date of payment if it has not been used for the purposes set out in the clause above.
Original paperwork in SCC possession	Yes
Balance at the end of financial year 2024/25	£49,868.00
Allocated to a project or item	Yes
Project or item	Rowbarrow Community Green Improvements
	High

Level of risk to move remaining money into general reserves or use it on a suitable project or item.	Rationale: Agreement states: improving and/or maintaining adult and children's sport, play or recreation facilities or installing and / or maintaining equipment. Therefore, the completed landscaping project at Rowbarrow green sits within the requirements as it improves the existing community green. The expiry date of the application is 22/09/21 the Rowbarrow project was completed in 2025 which means the council may be challenged however, a resident group worked with Councillors prior to 22/09/21 with the intention of spending the money on the landscaping project.
	The Rowbarrow project will be completed within 5 years of SCC receiving the money however, it's unknown when WC received the money from the developer before transferring it to SCC.

2. Rowbarrow - S/2011/0207-A

Site Location	Rowbarrow
Description	Information provided by former RFO: To purchase new recreational equipment or improve an existing facility {Rowbarrow}
June 2024 internal reference	S52
Planning application	S/2011/0207-A
Capital revenue	C/R
Receipt date	26/10/20
Expiry date	22/09/21 (information provided by former RFO)
Trigger date or information in agreement	Nil
Original paperwork in SCC possession	An unsigned document (no specific information included)
Balance at the end of financial year 2024/25	£47,600.00
Allocated to a project or item	Yes
Project or item	Rowbarrow Community Green Improvements
	High

Level of risk to move remaining money into general reserves or use it on a suitable project or item.	Rationale: Agreement states: <i>To purchase new recreational equipment or improve an existing facility {Rowbarrow}</i> Therefore, the completed landscaping project at Rowbarrow Green sits within the requirements as it improves the existing community green. The expiry date of the application is 22/09/21 the Rowbarrow project was completed in 2025 which means the council may be challenged however, a resident group worked with Councillors prior to 22/09/21 with the intention of spending the money on the landscaping project.
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3. Rowbarrow - S/2005/0980-A

Site Location	Downton Road/Rowbarrow
Description	information provided by former RFO: 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}
June 2024 internal reference	S51
Planning application	S/2005/0980-A
Capital revenue	C/R
Receipt date	26/10/20
Expiry date	22/09/21 (information provided by former RFO)
Key information in agreement	17.3 to return any sum (excluding maintenance contributions) paid in accordance with the planning obligations or any remaining part of it as the case may be to the owners at the expiry of the period of 5 years from the date of payment if it (or any part of it) has not been used or committed for the purposes set out in this agreement with interest thereon calculated at the 3 months LIBID rate.
Original paperwork in SCC possession	Yes
Balance at the end of financial year 2024/25	£68,148.00
Allocated to a project or item	Yes

Project or item	Rowbarrow Community Green Improvements New grounds equipment to maintain the area
Level of risk to move remaining money into general reserves or use it on a suitable project or item.	High Rationale: <i>Agreement states: improving and/or maintaining adult and children's sport, play or recreation facilities or installing and / or maintaining equipment.</i> Therefore, the completed landscaping project at Rowbarrow Green sits within the requirements as it improves the existing community green. The expiry date of the application is 22/09/21 the Rowbarrow project was completed in 2025 which means the council may be challenged however, a resident group were discussing with Councilor's about how to spend the money prior to 22/09/21. The Rowbarrow project will be completed within 5 years of SCC receiving the money
	however, it's unknown when WC received the money from the developer before transferring it to SCC.

4. Rowbarrow - S/1995/0238-B

Site Location	Rowbarrow/Heronswood
Description	Information provided by former RFO: Providing, improving and/or maintaining children's sport play or recreation facilities
June 2024 internal reference	S57
Planning application	S/1995/0238-B
Capital revenue	C/R
Receipt date	13/6/17
Expiry date	16/07/2050 (information provided by former RFO)
Original paperwork in SCC possession	No dedicated agreement for this phase of the development
Balance at the end of financial year 2024/25	£18,614.00
Allocated to a project or item	Yes
Project or item	Final provisions for Rowbarrow Community Green
Remaining money	£18,614.00
	Low

Level of risk to move remaining money into general reserves or use it on a suitable project or item.	Rationale: The expiry date to use the money is not until 2050. (although, no documentation proving this) Description states: Providing, improving and/or maintaining children's sport play or recreation facilities. SCC have cut the grass on Rowbarrow green for a number of years and continue to do so therefore, maintain the recreational facilities. Final provisions such as providing benches for the Rowbarrow Community Green will improve recreational facilities.
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5. Queen Elizabeth Gardens - S/1994/1488-C

Site Location	Queen Elizabeth Gardens
Description	Information provided by former RFO: Maintenance of footbridge and ancillary works (Spend on demand)
June 2024 internal reference	S55
Planning application	S/1994/1488-C
Capital revenue	R
Receipt date	28/4/17
Expiry date	01/01/2050 (date provided by RFO)
Original paperwork in SCC possession	No. Wiltshire Council has no record or paperwork for this agreement.
Balance at the end of financial year 2024/25	£43,330.00
Allocated to a project or item	Yes
Project or item	Maintenance and refurbishment of footbridges
	Med

Level of risk to use money for a suitable project or item.	Rationale: SCC hold no documentation for this agreement and neither do Wiltshire Council. Information provided by former RFO states expiry date is not until 2050. There are only two footbridges in Queen Elizabeth Gardens therefore, likely that this S.106 relates to them. Wording states: Maintenance of footbridge and ancillary works.
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Map showing location of bridges

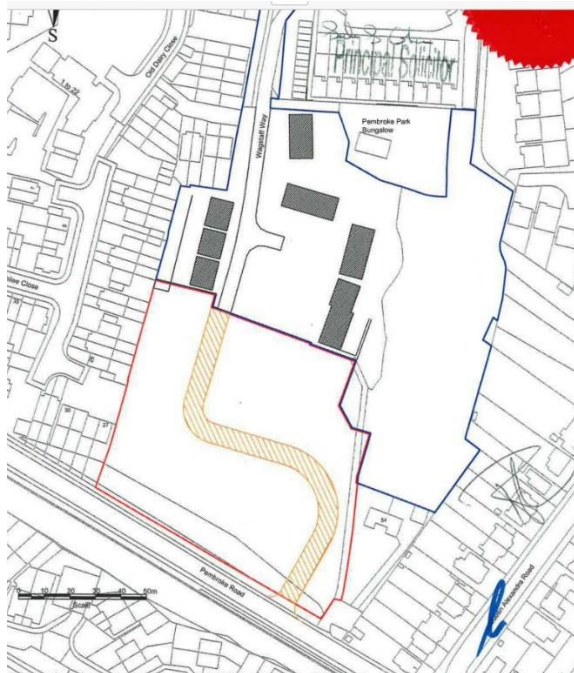


6. Wagstaff Way - S/2013/0090A & S/2013/0090C

Site Location	Wagstaff Way, former Pembroke Park School
Description	Maintenance of woodland area at Pembroke Road
June 2024 internal reference	S62
Planning application	S/2013/0090-A
Expiry date	2050
Capital revenue	R
Receipt date	Unknown (S/2013/0090A deed was made on 29 th November 2012)
Original paperwork in SCC possession	Yes
Balance at the end of financial year 2024/25	£4,636.00
Allocated to a project or item	Yes
Project or item	On-going maintenance

Transferable into general reserves	Yes (money has been spent on maintaining the woodland over the last two financial years)
Level of risk to move remaining money into general reserves	Low Rationale: Woodland maintenance is ongoing. Expiry date 2050

Map highlighting (in blue) the second section of Wagstaff Way, former Pembroke Park School development including the woodland. S/2013/0090C



For information purposes only a map highlighting (in red) the first section of Wagstaff Way, former Pembroke Park School development. S/2013/0090-A



7. River Park - PL/2021/03601

Site Location	Ashley Rd open space, Fisherton Rec Ground, Maltings & Central CP
Description	River Park maintenance for 50 years
June 2024 internal reference	S64
Planning application	PL/2021/03601
Capital revenue	R
Receipt date	19/03/24
Expiry date	50 years from completion and handover
Obligations	To maintain the River Park project
Original paperwork in SCC possession	Yes
Balance at the end of financial year 2024/25	£695,000.00
Transferable into general reserves	Partial amounts Low Rationale: The expiry date is not until 2075. <u>Considerations for using these funds</u> SCC were already maintaining the land at Ashley Road and at the Coach Station before River Park was created, so a certain proportion of the labor costs are already covered within SCC's resources. However, parts of the project require a greater level of maintenance than what was previously required on these sites. SCC has taken on additional assets under the project; these will need to be maintained. The materials used for the boardwalk changed after the s106 agreement and transaction was completed. The boardwalk is now constructed from wood (rather than plastic) and is likely to need additional maintenance over the years. SCC require additional grounds equipment to maintain the River Park.

Appendix B

Overview and proposal

Planning application	SCC internal ref.	Site location	Description	Total amount receipt	Balance at end of 2024/25	Money spent or allocated from April 2025	Project or item	Remaining money	Proposal
S/1995/0238-C	S49	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}	£67,668	£49,868	£49,868	Rowbarrow Community Green Improvements	£0	n/a
S/2011/0207-A	S52	Rowbarrow	To purchase new recreational equipment or improve an existing facility (Rowbarrow)	£47,600	£47,600	£47,600	Rowbarrow Community Green Improvements	£0	n/a
S/2005/0980-A	S51	Downton Road/ 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}	£68,148	£68,148	£33,242	Rowbarrow Community Green Improvements	£34,905	Use to purchase grounds maintenance equipment to maintain the Rowbarrow Community Green
S/1995/0238-B	S57	Rowbarrow/ Heronswood	Providing, improving and/or maintaining children's sport, play or recreation facilities	£18,614	£18,614	£18,614	Rowbarrow Community Green Improvements	£18,614	Final provisions for soft landscaping of Rowbarrow Community Green

S/1994/1488-C	S55	Queen Elizabeth Gardens	Maintenance of footbridge and ancillary works	£45,550	£43,330	£3,500	Measured survey CAD design/plan. (Currently waiting for an estimate from contractor to conduct work.)	£39,830	Continue to allocate funds for the maintenance and refurbishment of the footbridges Work planned for 2025
Planning application	SCC internal ref.	Site location	Description	Total amount receipt	Balance at end of 2024/25	Money spent or allocated from April 2025	Project or item	Remaining money	Proposal
S/2013/0090A S/2013/0090C	S62	Wagstaff Way, former Pembroke Park School	Maintenance of woodland area at Pembroke Road	£4,636	£4,636	n/a	Woodland management and grounds maintenance	On-going maintenance costs exceed the £4,636	Transfer money into general reserves
PL/2021/03601	S64	Ashley Rd open space, Fisherton Rec Ground, Maltings & Central CP	River Park maintenance for 50 years	£716,000	£695,000	£5,975	Grounds maintenance equipment to maintain River Park	£689,025	Initial purchase of grounds equipment to maintain River Park, followed by planned activities to discharge SCC obligations (report coming to 29 September 2025 Environment Committee)
					£927,196				

Appendix C

Money spent over financial year 2024/25

SCC internal code	Site Location	Amount	Description	SCC purchase order number
S49	Rowbarrow/Heronswood	£17,800.00	Rowbarrow Community Green	
S55	Queen Elizabeth Gardens	£2,220	Structural report of bridges	GRD S02894
S64	River Park	£21,000.00	Tractor side arm flail	GRDS02853

Further spend to be allocated over 2025/26

SCC internal code	Site Location	Amount	Description	SCC purchase order number
S55	Queen Elizabeth Gardens	£3,500.00	Measured survey of bridges, CAD plans and elevations	FEC 13484
S64	River Park	£2,285	BCS Duplex cutter bar for trimax	GRDS02903
S64	River Park	£3,690	Tractor side arm flail (additional cost)	GRDS02853
S49	Rowbarrow/Heronswood	£49,868.00	Rowbarrow Community Green	FEC13109 (<i>total project value £130,710.36</i>)
S52	Rowbarrow	£47,600.00	Rowbarrow Community Green	FEC13109
S51	Downton Road/Rowbarrow	£33,242.36	Rowbarrow Community Green	FEC13109

Work conducted at Waggstaff Way (evidence for transfer into general reserves from S62)

Amount	Description	Date	SCC purchase order number
£927.20	Arboricultural maintenance of woodland	12/11/24	FEC 13054
£989.48	Arboricultural maintenance of woodland	21/01/25	FEC 13133
£1,622.00	Arboricultural maintenance of woodland	April 2025	FEC13342
£740.70	Arboricultural survey of woodland	April 2025	FEC13347
£1,299.00	Critical arboricultural work carried out as advised from survey	16/05/25	FEC13615