

REPORT TO:	OVERVIEW AND SCRUTINY COMMITTEE	AGENDA ITEM: 06
DATE OF MEETING:	11 OCTOBER 2023	CATEGORY: (See Notes) DELEGATED or RECOMMENDED
REPORT FROM:	HEIDI McDOUGALL STRATEGIC DIRECTOR (SERVICE DELIVERY)	OPEN
MEMBERS' CONTACT POINT:	STEFFAN SAUNDERS – HEAD OF PLANNING AND STRATEGIC HOUSING, steffan.saunders@southderbyshire.gov.uk	DOC:
SUBJECT:	SECTION 106 CONTRIBUTIONS	TERMS OF REFERENCE: (See Notes)
WARD(S) AFFECTED:	ALL	

1. Recommendations

1.1. To note the Section 106 contributions held by South Derbyshire District Council as outlined at Appendix 1.

2. Purpose of the Report

2.1. As part of its annual work plan the Overview and Scrutiny Committee has requested a report that outlines the contributions the Council has secured through Section 106 (S106) agreements from new developments. This is for both financial contributions for off-site infrastructure provision and on-site provision.

2.2. At the Overview and Scrutiny Committee meeting held on 30 August 2023, Members requested further information on how projects receive funding, a breakdown of the amounts spent in each Ward area and funding amounts that remain unspent and the timescales for funds being spent.

2.3. It was also requested that a representative of the Integrated Care Board (ICB) attend the meeting and outline any plans for extending health care provision in the district using the monies available. A separate presentation is to be given on this by a representative from the ICB.

3. Detail

3.1. Section 106 Agreements under the Town and Country Planning Act 1990 are used as part of the planning application process to address specific issues that arise and are required to make a development acceptable in planning terms. The agreements take the form of a legal agreement, that is site specific.

3.2. Section 106 agreements can also:

- a. restrict the development or use of land in any specified way;
- b. require specified operations or activities to be carried out in, on, under or over the land;
- c. require a sum or sums to be paid to the authority on a specified date or dates periodically.

A planning obligation is recorded as a land charge and the obligation runs with the land ownership until the obligation is fully complied with.

Policy INF1 of the South Derbyshire Local Plan Part 1, adopted in June 2016, sets out how infrastructure should be delivered to support and mitigate the effects of new developments sustainably. The value of the contribution that is sought is supported through the Planning Obligations SPD and agreed at the point of the signing of the decision notice and accompanying S106 agreement. In accordance with the Statement of Community Involvement (SCI) Ward Members are consulted upon for planning applications within their individual ward, this is when they have the opportunity to say if there is a particular project they wish to be considered for inclusion within the S106 agreement; should the application get approved either via delegated powers or at Planning Committee.

- 3.3. The authority receives two different types of contributions, direct provision (where the developer typically delivers themselves on-site) and monetary provision (where the developer provides a financial contribution towards off-site provision or long-term on-site management or maintenance). The requirement for monetary provision is detailed within the S106 agreement including how the contribution is expected to be spent and the timeframe for spending prior to the amount being repaid to the developer. In more recent years, where possible Derbyshire County Council, who are collecting authority for infrastructure such as education and highways have been a signatory to the agreements so that they can actively collect their own contributions direct from the developer.
- 3.4. Set out in the Community Infrastructure Levy Regulations 2010 (as amended) it is a mandatory requirement for the Council as a 'contribution receiving authority' to publish an Infrastructure Funding Statement annually. The Infrastructure Funding Statement reports on receipts and expenditure of financial contributions in relation to Community Infrastructure Levy (CIL) and S106. As South Derbyshire District Council does not have a CIL, the obligations reported are all under S106 requirements. This report will be presented to the Environmental and Developmental Services Committee in November 2023, which will cover the 2022-2023 financial year. Previous Infrastructure Funding Statements can be found on the Council's [website](#).
- 3.5. The total current financial value of contributions collected via S106 agreements that are held by the Council is £16,482,581, with the latest spend deadline being 2033. The spend deadline is dependent upon each individual S106 agreement terms. The contributions are split into the below categories, 'unspecified' is whereby the contribution does not fall into any of the previous categories listed for the collecting authorities. For example, Highways and Flood Water Management contributions. Further information on the infrastructure projects that the money is to be spent on is detailed in appendix 1.

Contribution Type	Amount (£)
Affordable Housing	6,966,177
Cultural Services	3,724,977

Property Services	45,336
SDDC Unspecified	487,249
Healthcare	2,476,124
DCC Education	1,787,389
DCC Unspecified	525,275
Unspecified	470,034

3.6. In relation to contribution in kind, alongside the delivery of affordable housing and open space with play equipment the following types of direct provision, are expected to be received across different Local Plan Part 1 allocations across the District, this break down can be seen in appendix 2.

- a. Healthcare provision
 - i. Including the provision of a new Doctors surgeries across the District alongside the spending of the financial contributions to either aide the new surgery delivery or support existing surgeries within South Derbyshire. This is subject to take up by the Derby and Derbyshire Integrated Care Board (ICB) depending upon numerous factors including local demand, existing or proposed local healthcare provision and priorities and, the availability of Doctors.
- b. School provision
 - ii. Including the delivery of new primary schools delivered by Derbyshire County Council as the Local Education Authority in conjunction with the Department of Education alongside providing support to existing schools across South Derbyshire using the terms agreed in S106 agreements.
- c. Community Centre and / or Outdoor Sports Pitches
 - iii. These are delivered by the developer on behalf of South Derbyshire District Council in accordance with the trigger points contained within the Section 106 agreement.

4. **Financial Implications**

4.1. S106 agreements have a timescale specified for the spending of the contribution; any contributions that remain unspent at the end of the specified date will need to be repaid to the developer.

5. **Corporate Implications**

Employment Implications

5.1. None.

Legal Implications

5.2. None directly associated with this report.

Corporate Plan Implications

5.3. The S106 agreements reported within Appendix 1 are consistent with several Corporate Plan themes. This includes;

- Improve the Environment of the District (Our Environment).
- Promote Health and Wellbeing across the District (Our People)

- Influence the improvement of Infrastructure to meet the demands of growing (Our Future)

Risk Impact

5.4. There is a risk that if the money is not spent on time than it has to be paid back to the developer. It is critical that projects are adequately managed to prevent this.

6. Community Impact

Consultation

7.1 None.

Equality and Diversity Impact

7.2 None.

Social Value Impact

7.3 The S106 contributions reported will lead to an increase in the provision of specific infrastructure of benefit for the community as specified in appendix 1 of the report.

Environmental Sustainability

7.4 The S106 contributions reported will lead to an increase in open space provision and biodiversity enhancements across the District.

7. Background Papers

Appendix 1: Section 106 Contribution held by South Derbyshire District Council

Appendix 2: Section 106 Contribution held by South Derbyshire District Council by Ward

Appendix 3: Contributions in kind , expected to be delivered across South Derbyshire