

## HALF YEARLY REPORT ON PLANNING OBLIGATIONS

### Purpose of the Report

To provide Members with a report on planning obligations which have been secured over the 6 month period referred to in this report, works that have been funded in part or in whole by planning obligations within this period and compliance with their requirements

### Recommendations

- a) That the report be noted
- b) That the Head of Planning continue to report on a half yearly basis to the Planning Committee on planning obligations which have been secured over the preceding six months, works that have been funded during that period in whole or in part by planning obligations and compliance with their requirements
- c) That the County Council's NTADS Final Review be reported to the Planning Committee at a future meeting when available

### Introduction

The last half yearly report on planning obligations was provided to the Committee at its meeting in May 2015 and covered the period between October 2014 to March 2015. This report now covers the period between 1st April 2015 to 30th September 2015 and sets out planning obligations which have been secured over this 6 month period, works that had been funded during that period in whole or in part by planning obligations, and compliance with their requirements.

One of the areas of work within the Planning Service relates to the ongoing maintenance of a database relating specifically to planning obligations whether achieved by agreement or by undertaking. These are sometimes known as Section 106 agreements or undertakings – being entered into pursuant to Section 106 of Town and Country Planning Act 1990, as amended.

As reported previously the database is missing some key information which would help officers to monitor cases and report information more efficiently. The updating of the database has also been hindered more recently due to I.T. problems which has resulted in access to it not being possible. These have now been overcome, at least for the present. In order for it to have benefit there is a need to have a fully updated and accessible database so that information can be obtained more readily.

Enquiries from conveyancing solicitors seeking confirmation that planning obligations have been complied with are ever increasing and information held on the database is essential in dealing with these time consuming requests. Consideration is being given to whether it would be possible and appropriate to introduce a charge for the provision of such a service. Members may recall that the Planning Committee in 2013 rejected proposals to seek the payment of Section 106 monitoring fees within the agreements themselves.

Regardless, recent legislative changes mean that the Service needs to be immediately able to establish what planning obligations have been secured since 5 April 2010 with respect to individual projects and types of infrastructure and the database plays an important function in obtaining this information more readily.

As with previous half yearly reports the relevant Section 106 information is reported in Tables. An additional Table listing those developments where planning obligations by developers/owners of land have been agreed to be modified is provided for the first time (Table 1a).

**Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1<sup>st</sup> April 2015 – 30<sup>th</sup> September 2015)**

This Table identifies developments where planning obligations by agreement or undertaking have been entered into by developers/owners. It does not include the obligations entered into by the public authorities, except where they are the landowner/developer. The cases involve both financial contributions, the provision of development such as affordable housing and obligations which restricts the use of a development e.g. non-severance of ancillary accommodation. Contributions are usually payable upon commencement of the development (the payment “trigger”), but that can vary. If a development is not undertaken it follows that there is no requirement to pay the contribution.

<b>Application reference and date of agreement or undertaking</b>	<b>Location of development</b>	<b>Development</b>	<b>Purpose of the obligation(s) entered into by developers/owners</b>	<b>The level of contribution(s) payable when development trigger achieved</b>
15/00202/OUT  28 <sup>th</sup> August 2015	Land South West of Mucklestone Road, West of Price Close and North of Market Drayton Road Loggerheads	Residential development of up to 78 units including provision of affordable housing, public open space and vehicular and pedestrian accesses	25% Affordable Housing	Not applicable
			Education contribution towards the provision of additional spaces in a two class base extension at Madeley High School	£270,788 (Index Linked)
			Travel Plan Monitoring	£6,300 (Index Linked)
			Open space and Play space management agreement	Not applicable
15/00077/OUT  7 <sup>th</sup> July 2015	Land to the rear of Former Randles Garage Higherland Newcastle	Erection of up to 12 dwellings.	Public Open Space – Upgrade and Maintenance of Queen Elizabeth Park	£28,848 (Index Linked)
14/00472/FUL  8 <sup>th</sup> April 2015	Land opposite Superstore Lyme Valley Road Newcastle	Erection of 6 dwellings	Open space management agreement	Not applicable

14/00930/OUT  1 <sup>st</sup> April 2015	Land Off New Road Madeley	Outline planning application for the erection of up to 32 dwellings (including details of access)	25% Affordable Housing	Not Applicable
			Education Contribution towards places at Madeley High School	£49,866 (index linked)
			Provision of Public Open Space and its maintenance arrangements – College Gardens	£2,942 (Index Linked) per dwelling as may be permitted under the Reserved Matters Approval.
15/00376/FUL  8 <sup>th</sup> August 2015	Plot 34 Eastwood Rise Baldwins Gate	Detached dwelling	Restriction of the land to one dwelling and if the planning permission is implemented then previous permissions shall not be implemented	Not Applicable
15/00329/FUL  27 <sup>th</sup> May 2015	The Skylark High Street Talke	Demolition of existing public house and erection of ten (10 no.) dwellings	Improvement of Public Open Space and its maintenance arrangements – Chester Road playground	£15,000 (Index Linked)
15/00421/FUL  21 <sup>st</sup> July 2015	Site of Former Oxford Arms Moreton Parade, May Bank Newcastle	Residential development of six pairs of semi - detached houses to provide 12 no. dwellings and parking spaces	Public Open Space improvement and its maintenance – Wolstanton Park	£35,316 (Index Linked) .
13/00970/OUT  2 <sup>nd</sup> April 2015	Land North of Pepper Street Keele	Residential development (maximum of 100 dwellings)	15% on-site Affordable Housing	Not Applicable
			Open space and Play space management agreement at the start of each phase	Not Applicable
			Education Contribution towards the provision of educational facilities at St. Johns CE (VC) Primary School, Keele and Madeley High	£364,627 (Index Linked)

			School	
			Travel Plan Monitoring	£2,250 (Index Linked)
			A financial bond towards remediation works	£1,264,477
			Viability Re-appraisal	Not Applicable
14/00968/FUL	Former T G Holdcroft Knutton Road Wolstanton Newcastle	Erection of 31 retirement dwellings,communal facilities, car parking and provision of landscaping areas	Off-site Affordable Housing contribution	£172,624 (Index Linked)
13 <sup>th</sup> August 2015			Public Open Space contribution towards the improvement of the bowling green at Wolstanton Park	£26,335 (Index Linked)
			Viability Re-appraisal	Not Applicable
14/00875/OUT	Land adjacent to Windclose Cottage, Stone Road Hill Chorlton	Residential development of up to 8 dwellings	25% on-site Affordable Housing	Not Applicable
2 <sup>nd</sup> September 2015 (as part of appeal proceedings, the appeal subsequently having been dismissed and the permission refused)			Education Contributioin towards the provision of educational facilities at Baldwins Gate Primary School and Madeley High School	£38,684 (Index Linked)

**Table 1a - Developments where planning obligations by developers/owners of land have been agreed to be modified (1st April 2015 – 30th September 2015)**

This Table identifies developments where planning obligations by agreement or undertaking have been modified. The list includes decisions made under Section 106BA, BB and BC of the 1990 Town and Country Planning Act which allow the review of planning obligations on planning permissions which relate to the provision of affordable housing, and where the Council has, without a formal application having been made, agreed to amend or modify an existing agreement .

<p>15/00359/DOAHR  28<sup>th</sup> May 2015</p>	<p>Land North Of Pepper Street Keele Newcastle</p>	<p>Application under Section 106BA of the Town and Country Planning Act 1990 to revise the affordable housing contribution secured within the planning obligation entered into in association planning permission 13/0970/OUT for residential development</p>	<p>Planning obligation modified to reduce the requirement for the affordable housing contribution to 6% of the total number of dwellings constructed, (3% social rented and 3% shared equity) for a period of 4 years after which it reverts to the original affordable housing obligation (15%), such modification only relating to those dwellings completed within that period</p>	<p>Not Applicable</p>
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**Table 2 - Development where financial contributions have been made (1st April 2015 – 30th September 2015)**

This Table identifies the development where the planning obligation requires the payment of a financial contribution and the trigger for payment has been reached and payments have been made. The sum of the contribution may differ from that originally secured due to it being a phased payment of the contribution, or the application of indexation.

<b>Permission reference</b>	<b>Location of development</b>	<b>Development</b>	<b>Purpose of the obligation(s)</b>	<b>Contribution made</b>
Nil	-	-	-	-

**Table 3 - Development where financial contribution have been spent. (1st April 2015 – 30th September 2015)**

This Table identifies those developments where the spending authority have advised the Planning Authority that they have spent within the above period a financial contribution secured via planning obligations. The Table primarily refers to expenditure by the Education Authority and by the Borough Council. NTADS expenditure is being published by the County Council in its NTADS – Final Review 2015 document that will cover a period between 2008 and 2014. A separate report will be provided to the Planning Committee. Any information on expenditure of Section 106 contributions on Travel Plan Monitoring for this period and the previous period between October 2013 to September 2014 will be reported prior to the meeting if it can be obtained. Similarly the Table only refers to the spending of financial contributions, it does not refer to the affordable housing that has been provided as a consequence of planning obligations.

<b>Permission associated with the planning obligation as a result of which funding was received</b>	<b>Location of development referred to in the permission</b>	<b>Development</b>	<b>Amount received as a result of planning obligation and purpose of contribution as indicated in the planning obligation</b>	<b>How the contribution has been spent</b>
11/00129/FUL	Land off Grange Lane Wolstanton Newcastle	Residential development	£950 towards Public Open Space improvements/ enhancements	Administrative costs associated with improvement of the play facility at Wolstanton Marsh
13/00712/FUL	Land at the Junction Of Blackfriars Road and Lower Street Newcastle	Construction of new foodstore (Class A1) with associated car parking, servicing and landscaping.	£17,370 towards Lower Street subway improvements	The sum has covered the cost of the design, application and completion of art work (including postcards) on the subway.
06/01180/OUT	Land and Buildings at Ashfields New Road, Knutton Lane and Liverpool Road Newcastle	New college, sports facilities, Superstore, Petrol Filling station, offices, housing, parking, landscaping and associated engineering works	£1694 towards Subway Improvements - Enderley St, Ryecroft and Bridge Street	Administrative costs of delivering the refurbishment of subways

**Table 4 to Half yearly report on Planning Obligations - Development where apparent breaches of planning obligation has been identified (1st April 2015 – 30th September 2015)**

This Table identifies developments where either the triggers for the payment of financial contribution have been achieved and no payment has yet been received, or there is some other current breach in terms of the obligation/undertaking. It also includes cases brought forward from previous periods, which have not yet been resolved, and cases reported in the last half yearly report which have now been resolved and can be considered “closed”.

<b>Permission reference</b>	<b>Location of development</b>	<b>Development</b>	<b>Purpose of the obligation and description of the apparent breach</b>	<b>Action taken and to be taken to resolve the apparent breach.</b>
03/01033/OUT	Former Evans Halshaw Hassell Street, Newcastle	Residential Development	Public Open Space contribution (£900 x 45 units) £40,500 – Non-payment of the contribution.	<p>Significant progress has been made on this case which has appeared in this Table of the half year report a number of times previously</p> <p>Legal Services have confirmed that the Council has agreed a settlement figure of £30,000 with Sutherland Capital Ltd.</p> <p>The parties have reached an agreement and this has now been approved by the Court. The first payment of £10,000 has now been received by the Council. The second payment of £10,000 plus fees £4,079.20 has been paid and the final instalment of £10,000 is due by the 23<sup>rd</sup> December 2015.</p>
10/00480/FUL	Former Corona Works,	Residential Development	Public Open Space contribution	This case has also appeared



	Sandford Street Chesterton		totalling £47,088 (index linked) – trigger of commencement of the development (within original agreement) for payment passed but no payment received to date	<p>in this Table of the half year report on a number of times previously due to the POS contribution having not been paid despite the trigger being achieved.</p> <p>The Planning Committee at its meeting on 16th April 2013 resolved to defer the requirement to make this payment - until prior to commencement of the 9th dwelling on the site. The revised agreement required to formalise this has still not been completed by the other party, despite several approaches by the Council's solicitors.</p> <p>The scheme currently has 4 dwellings completed with 3 plots due to be completed.</p>
99/00918/FUL	Land off Grange Lane Wolstanton Newcastle	Residential development	New link road and residential development	<p>The plans for the Wulfstan Grange housing development and secured S106 obligation included the provision by the developer of a toddlers play area at the "bottom of Minton Street" (within the development site).</p> <p>The housing development has been built out without the</p>

				<p>toddlers play area being provided which is a breach of the S106 obligation. .</p> <p>Officers of the Landscape Development Section are in active discussions with the developer (Bloor Homes) to bring this matter to a conclusion. It is hoped that the discussions will conclude shortly and the agreed play area then provided. Pressure will be applied to Bloor homes to provide the play area and an agreed end date will be reported via the the next Half yearly report.</p>
12/00127/OUT	Land South of West Avenue, West of Church Street and Congleton Road, and North of Linley Road Butt Lane	Residential development of 172 dwellings, area of community woodland, public open space and formation of new accesses	Newcastle (urban) Transport and Development Strategy (NTADS), Travel Plan Monitoring and Public Right of Way improvement totalling £191,725 – Non-payment of the contribution and the trigger point has been reached (upon commencement of development).	<p>The development commenced in June 2015 (six of the units have now been completed). The contributions should have been paid to the County Council prior to the commencement of development but they have not. Officers of the Borough Council have contacted the developer – Taylor Wimpey who have indicated that the contributions will be paid on the 4<sup>th</sup> January 2016.</p> <p>Officers will monitor this to</p>

				ensure that they are paid on the 4 <sup>th</sup> January and an update will be reported prior to the planning committee via the the next Half yearly report.
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