

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, obligations which have been modified either by application or agreement, 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, obligations that have been modified, 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 January 2016 and covered the period between April 2015 to September 2015. This report now covers the period between 1st October 2015 to 31st March 2016 and sets out planning obligations which have been secured over this 6 month period, obligations which have been amended either by application or by agreement, 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 was reported in the last half yearly report 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 otherwise time consuming requests. .

Legislative changes that came in to effect in April 2015 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.

Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1st October 2015 to 31st March 2016)

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.

Application reference and date of agreement or undertaking	Location of development	Development	Purpose of the obligation(s) entered into by developers/owners	The level of contribution(s) payable when development trigger achieved
14/00477/FUL 23 rd October 2015	Newcastle Baptist Church, London Road, Newcastle	Demolition of former Newcastle Baptist Church and erection of residential apartment development containing 14 no. 2 bed units and 8 no. 1 bed units, formation of new access and associated car parking	Off site Affordable Housing contribution but only should a reappraisal be required and demonstrate one can be provided	Nil, but upon appraisal up to broadly equivalent value of provision of 25% affordable housing
			Public Open Space Contribution (Stubbs Walk) but only should a reappraisal be required and demonstrate one can be provided	Nil, but upon appraisal up to £60,684.00 (Index Linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable
13/00245/FUL 12 th October 2015	Old Springs Farm, Stoneyford, Market Drayton	Retention of an agricultural building for the chopping and storage of Miscanthus	A routing agreement for vehicles transporting miscanthus	Not Applicable
14/00370/FUL 5 th November 2015	Ultra Kennels, Unit 17, Loomer Road Industrial Estate, Loomer Road, Chesterton	Change of use of a B2 warehouse unit to a D2 leisure (crossFit Gym) unit	Offsite parking provision (24 spaces)	Not applicable
15/00166/FUL	Jubilee Baths, Nelson	Demolition of former	Travel Plan Monitoring	£2,200.00 (Index

24 th November 2015	Place, Newcastle	swimming baths and construction of 244 room student development with associated communal area and car parking (Sky Building)		Linked)
			Public Open space enhancement and maintenance (Queens Gardens)	£198,716 (index linked)
14/00027/FUL 10 th March 2016	Land Adjacent 31, Banbury Street, Talke	Erection of 13 new dwellings with associated access road, parking and landscaping	Education Contribution (St Saviours) but only should a reappraisal be required and demonstrate one can be provided	Nil, but upon appraisal up to £33,093.00 (Index Linked)
			Public Open Space contribution (Clough Hall Park) but only should a reappraisal be required and demonstrate one can be provided	Nil but upon appraisal up to £38259.00 (Index Linked)
			The Newcastle-under-Lyme (Urban Transport and Development Strategy (NTADS) contribution , but only should a reappraisal be required and demonstrate one can be provided	Nil but upon appraisal up to £8,000.00 (Index Linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable
16/00008/FUL 11 th March 2016	Former St Giles And St Georges Primary School Barracks Road Newcastle	Redevelopment of site to provide new Public Services Hub Building and associated works	A financial contribution to fund Resident Parking Zones, if established to be required.	£50,000.00 (Index Linked)
15/00699/FUL 15 th March 2016	Land At Ashfields New Road, Newcastle	Construction of 10 houses and 32 flats	Public Open Space contribution (the Greenway) but only should a reappraisal be required and demonstrate one can be provided	Nil but upon appraisal up to £106,358.00 (index linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable
15/00759/FUL 21 st March 2016	Former Blue Bell Inn, New Road, Wrinehill	Proposed 5 No. detached dwellings	A commuted off-site affordable housing contribution	At least £45,000.00 (Index Linked)

			Financial Viability Re-appraisal mechanism	with provision for additional sum should reappraisal be required and demonstrate that more is appropriate
15/01116/FUL 23 rd March 2016	Former Squires Copper, Mount Road, Kidsgrove	Erection of two detached residential properties	Public Open Space contribution towards access improvements to the Bellway Homes playground number 2 near Silvermine Close.	£5886 (Index Linked)
14/00767/FUL 23 rd March 2016	Former Woodshutts Inn, Lower Ash Road, Kidsgrove	The construction of 22 affordable dwellings	Education Contribution (St Saviours) but only should a reappraisal be required and demonstrate one can be provided)	Nil but upon reappraisal up to £22,062 (Index Linked)
			Public Open Space (Clough Hall Park) contribution but only should a reappraisal be required and demonstrate one can be provided	Nil, but upon reappraisal up to £64,746 (Index Linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable
15/01004/FUL 30 th March 2016	The Hawthorns, Keele Village And Barnes, Keele Campus, Keele	Proposed student accommodation with carparking (Barnes, Keele Campus) and proposed residential development of 83 dwellings with school drop off point, shop and areas of greenspace (The Hawthorns, Keele Village).	Education Contribution (Madeley High School)	£132,976 (Index Linked)
			On site open space maintenance	Not Applicable
			Primary School Contribution (St Johns) but only should a reappraisal be required and demonstrate one can be provided	Nil, but upon reappraisal up to £193,118 (index linked)
			Off site Affordable housing contribution, but only should a reappraisal be required and demonstrate one can be provided	Calculation formula in Agreement
			Financial Viability Re-Appraisal Mechanism	Not Applicable

15/00821/OUT 1 st March 2016	Rowney Farm, Market Drayton Road, Loggerheads	Residential development up to 9 dwellings	Public Open Space contribution towards the improvement and development of the Burntwood and Tagedale Brook areas of public open space, upon granting of consent and commencement of development (appeal subsequently dismissed)	£2,942 (index linked) per dwelling
			25% Affordable housing on site upon granting of consent and commencement of development (appeal subsequently dismissed)	Not applicable

Table 2 - Developments where planning obligations by developers/owners of land have been agreed to be modified or discharged by application or by agreement (1st October 2015 to 31st March 2016)

This Table identifies developments where planning obligations by agreement or undertaking have been modified or discharged. 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 .

Application Number (if applicable) & Reference Number of original related permission and date of modified /discharged agreement	Location of Development	Application	Decision
15/01010/DOB & 98/00729/COU 23 rd March 2016	Stone Quarry Farm, High Street, Alsagers Bank	Application to discharge a planning obligation which prevented the building being used for purposes other than as short stay tourist / holiday accommodation and the separate disposal of land	Obligaton discharged
12/00127/COU & 15/00441/DOAHR 22 nd March 2016	Land south of West Avenue, west of Church Street and Congleton Road, and north of Linley Road, Butt Lane, Kidsgrove	Application under Section 106BA of the TCP for the affordable housing requirement within the planning obligation entered into on 20 th December 2013, in association with planning permission 12/00127/OUT for residential development, to be modified	Modifications agreed to allow for affordable rented units rather than social rented units to b provided and total number of affordable units within the scheme reduced from 43 units to 30

Table 3 - Development where financial contributions have been made (1st October 2015 to 31st March 2016)

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.

Permission reference	Location of development	Development	Purpose of the obligation(s) subject of contributions received	Contribution made and to whom
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.	£191,725 SCC
15/01116/FUL	Former Squires Copper, Mount Road, Kildgrove	Erection of two detached residential properties	Public Open Space contribution towards access improvements to the Bellway Homes playground number 2 near Silvermine Close.	£5886 NBC
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	Public Open Space contribution towards the improvement of the bowling green at Wolstanton Park	£26,335 (Index Linked) NBC
11/00611/FUL	(Marks and Spencer) Wolstanton Retail Park, Newcastle	Demolition of existing retail warehouse units, distribution unit and redundant methane pumping station. Construction of new retail store with ancillary refreshment facilities, new and altered car parking, servicing and sewerage facilities	Business Improvement Contribution	£10,696.84 NBC

Table 4 - Development where financial contribution have been spent. (1st October 2015 to 31st March 2016)

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. 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.

Permission associated with the planning obligation as a result of which funding was received	Location of development referred to in the permission	Development	Amount received as a result of planning obligation and purpose of contribution as indicated in the planning obligation	How the contribution has been spent
12/00036/FUL	Land At Charter Road Newcastle	Construction of 117 new build dwellings	Education Contribution £78,219.11 to be used on the provision of education facilities within the vicinity of the development.	A three classroom expansion at Hempstalls to increase the school to a 2 FE primary for the 2016/17 Academic year.
12/00512/FUL	Thistleberry House Residential Home Keele Road Newcastle	Demolition of existing Thistleberry House building, erection of 37 dwellings and creation of new access off Keele Road	Public Open Space contribution of £109,034.58	£994 towards administrative charges (staff wages etc)
09/00600/OUT	Site Adjacent To Former GEC Factory Lower Milehouse Lane Newcastle	Erection of 130 dwellings with associated parking	Public Open Space contribution of £382,590	£9,675 for retentions and administrative charges (staff wages etc)

Table 5 to Half yearly report on Planning Obligations - Developments where apparent breaches of planning obligation has been identified

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”.

Permission reference	Location of development	Development	Purpose of the obligation and description of the apparent breach	Action taken and to be taken to resolve the apparent breach.
10/00480/FUL	Former Corona Works, Sandford Street Chesterton	Residential Development	Public Open Space contribution totalling £47,088 (index linked) – trigger of commencement of the development (within original agreement) for payment passed but no payment received to date	<p>This case has appeared 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> <p>Discussions have been</p>

				ongoing between planning officers and the developer about the financial viability of the scheme. These discussions have not been concluded and the developer has been given further time to explore the matter before deciding how to proceed with the development that is likely to stall once the 3 plots have been completed.
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 toddlers play area being provided which is a breach of the S106 obligation. .</p> <p>Discussions between the developer and the Officers of the Landscape Development Section have been ongoing and an agreement has been reached and work to implement the necessary works are due to start on the</p>

				16 th May 2016. A further update will be provided as to the expected completion date when this is available.
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 (at least fourteen 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 were not.</p> <p>Communication with the developer led to them indicating that the contributions would be paid on the 4th January 2016.</p> <p>The full figure of £192,075 (includes index linking) has now been paid to the County Council (11th January 2016) and there is no longer a breach of the S106 agreement. The case is considered closed</p>
15/00166/FUL	Site of former Jubilee Baths site, Brunswick Street / Nelson Place.	Demolition of former swimming baths and construction of 244 room student development with	Public Open Space contribution for the improvement of Queens Gardens totalling £122,000 was due on 31 st March 2016 but the payment has not	Solicitors for the developer have contacted the Council and have indicated that they will be formally requesting

		associated communal area and car parking (Sky Building)	been received to date	the Council to amend the Obligations to allow for a deferment of payment. This request will be subject to a separate report to the Committee in due course.
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