

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

Introduction

The last half yearly report on planning obligations was provided to the Committee at its meeting on 24th May 2016 and covered the period between 1st October 2015 to 31st March 2016. This report now covers the period between 1st April 2016 to 30th September 2016 and sets out planning obligations which have been secured during this 6 month period, obligations which have been amended either by application or by agreement, works that are known to have been funded during that period in whole or in part by planning obligations, and compliance with their requirements. Members should however note that the information on payments received and funded expenditure may be incomplete.

Planning obligations can be secured by agreement or by unilateral 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 with previous half yearly reports the relevant Section 106 information is reported in various Tables.

Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1st April 2016 to 30th September 2016)

This Table identifies developments where planning obligations by agreement or by 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
15/00692/FUL 27 th May 2016	Audley Working Mens Club,, New Road., Bignall End	Erection of 12 houses	Education Places Contribution (Ravensmead Primary) but only should a reappraisal be required and demonstrate one can be provided)	Nil but upon reappraisal up to £33,093 (Index Linked)
			Public Open Space (Bignall End Road playground) contribution but only should a reappraisal be required and demonstrate one can be provided	Nil, but upon reappraisal up to £41,202 (Index Linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable
15/00368/OUT 1 st September 2016	Land At West Avenue, Kidsgrove	Outline planning application for residential development for 44 dwellings	25% Affordable Housing (11 Units)	Not Applicable
			Public Open Space contribution towards enhancement and maintenance of the playground at Townfield Close	£129,492 (Index Linked)
			Education Places Contribution towards general teaching rooms at St. Saviour's CE Primary School.	£99,279 (Index Linked)
14/00948/OUT	Hamptons Metal Merchants And Land Adjoining Keele	Residential development of up to 138 dwellings	20% Affordable Housing	N/A
			Education Places Contribution to St Giles's and	£319,899 (Index

8 th July 2016, as subsequently confirmed by Inspectors appeal decision 14 th September 2016	Road, Newcastle Under Lyme		St.Georges Academy	Linked)
			Long term Management and Maintenance of on site public open space	N/A
			Travel Plan Sum	£6,300 (Index Linked)
			Financial Viability Re-Appraisal Mechanism	N/A

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 April 2016 to 30th September 2016)

This Table identifies developments where planning obligations by agreement or undertaking have been modified or discharged. The list includes decisions made under Section 106A (to vary or discharge the terms of an obligation), under Section 106BA which allowed the review of planning obligations on planning permissions which related 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
16/00015/DOB & 04/00189/COU 19 th April 2016	White House Farm Deans Lane Balterley	Application to discharge a planning obligation which prevented the severance of a building from the other buildings and land on the application site in the ownership of the applicant. The obligation was originally entered into prior to the granting of planning permission for conversion of the building into a holiday let. In 2015 planning permission was granted 15/00682/COU for the buildings use as a single dwelling.	Obligaton discharged
16/00326/FUL & 14/00767/FUL 3 rd September 2016	Site of former Woodshutts public house, Lower Ash Road.	Application for amendment to a condition of the earlier permission for 22 dwellings on this site. A S106 agreement prior to that earlier permission had referred only to the development referred to in that earlier permission and had required a reappraisal 12 months later (if no substantial commencement by then). As a consequence prior to the granting of the new permission it was necessary to enter into a Deed of Variation varying the terms of the original agreement entered with respect to application 14/00767/FUL, that also preserved the original date by which a financial reappraisal might be required.	Obligation amended

Table 3 - Development where financial contributions have been made (1st April 2016 to 30th September 2016)

This Table identifies the developments where a 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. Because of difficulties experienced in obtaining this information it may be incomplete particularly with respect to contributions that may have been made directly to the County Council. In the next 6 monthly report an update will, hopefully, be provided.

Permission reference	Location of development	Development	Purpose of the obligation(s) subject of contributions received	Contribution made and to whom
15/00759/FUL	Former Blue Bell Inn, New Road, Wrinehill	Proposed 5 No. detached dwellings	A commuted off-site affordable housing contribution	£45,000 NBC
14/00476/FUL	Homestead / May Place, Brampton Road, Newcastle Under Lyme	Proposed new 65 apartment Extra Care scheme with allied facilities.	Public Open Space contribution	£36,366.85 NBC

Table 4 - Development where financial contribution have been spent. (1st April 2016 to 30th September 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 refers to expenditure by the Education Authority and by the Borough Council and accordingly may be incomplete. In the next 6 monthly report an update will, hopefully, be provided. The Table only refers to the spending of financial contributions, it does not refer to on-site 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
Nil	-	-	-	-

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 reached 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 & Date of Obligation	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 14 th December 2010	Former Corona Works, Sandford Street Chesterton	Residential Development of 16 dwellings	Public Open Space contribution of £47,088 (index linked) – trigger of commencement of the development (within original agreement) for payment passed sometime ago but no payment received to date	<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>The District Valuer has now been instructed to carry out a viability appraisal for the approved development to assess whether the scheme can support the policy</p>

				compliant public open space and affordable housing contributions/ requirements. It is expected that the developer will then make an application under Section 106A to vary or discharge such requirements, which would come before the Planning Committee for determination.
99/00918/FUL 13 th Feb 2012	Land off Grange Lane Wolstanton Newcastle	Residential development	Provision of toddlers play area at the bottom of Minton Street no later than the date upon which 214 dwellings completed or 13 th Feb 2015 which ever is the sooner. The toddlers play area was not provided when it should have been which was a breach of the S106 obligation.	Landscape Section are due to carry out a site visit as the developer is nearing completion of the works in question and the toddlers play area should soon be in use. Once the works have been completed and the area is in use the case can be closed. Members will be informed of this.
15/00166/FUL 24 th November 2015	Site of former Jubilee Baths site, Brunswick Street / Nelson Place.	Demolition of former swimming baths and construction of 244 room student development with associated communal area and car parking (Sky Building)	Public Open Space capital sum contribution for the improvement of Queens Gardens totalling £120,931 (index linked) was due to be paid on or before 31 st March 2016 but the payment was not received by that date	The Planning Committee at its meeting on 19 th July 2016 agreed, upon the developer's request, to amend the agreement so that the required payment date would be 30 th September 2016. Since then the agreement has not been amended nor was the payment was made by the

<p>12/00701/FUL 13th May 2013</p>	<p>Former Randles Ltd, 35 Higherland, Newcastle Under Lyme</p>	<p>Change of use of ground floor to A1 retail (convenience goods), installation of a replacement shopfront, associated external alterations and works including the recladding of the building and formation of a car park and amended site access</p>	<p>A financial contribution of £36,017 (index linked) towards the Newcastle (urban) Transport and Development Strategy (NTADS) is required to have been paid prior to the commencement of the development.</p> <p>That has not happened</p>	<p>30th September.</p> <p>The ground floor of the building has been operating as a Tesco food store for over a year. The County Council and the Borough Council have requested outstanding amount which will need to have index linking applied, and in the event of payment still not being made further action may need to be taken.</p>
<p>15/00329/FUL 27th May 2015</p>	<p>The Skylark High Street Talke</p>	<p>Demolition of existing public house and erection of ten dwellings</p>	<p>A financial contribution of £15,000 (index linked) towards Public Open Space enhancements and maintenance at Chester Road playground should have been made within 9 months of the commencement of the development. The applicant has previously confirmed that the development commenced in September 2015. Therefore the payment was due by the end of June 2016. The contribution has not been paid to date.</p>	<p>The development is nearing completion and further correspondence has been sent to the developer seeking the payment of the outstanding contribution.</p>