

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 provide such a report on a half yearly basis to the Planning Committee

Introduction

The last half yearly report on planning obligations was provided to the Committee at its meeting on 8th November 2016 and covered the period between 1st April 2016 to 30th September 2016. This report now covers the period between 30th September 2016 to 31st March 2017 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 October 2016 to 31st March 2017)

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
16/00326/FUL 30 th September 2018	Former Woodshutts Inn, Lower Ash Road, Kidsgrove	Variation of condition 15 (odour abatement system) of planning permission 14/00767/FUL for 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
16/00609/FUL 24 th November 2016	Land Adjacent The Sheet Anchor, Newcastle Road, Whitmore	The construction of 7 new houses with access road and associated landscaping	Off-Site Affordable Housing contribution	£19,339 (Index Linked) but upon reappraisal up to £21,9.79
			Public Open Space contribution towards enhancement and maintenance of POS in the locality	£20,601 (Index Linked)
			Financial Viability Re-Appraisal Mechanism.	Not Applicable

16/00712/FUL 30 th November 2016	New Look, Pit Head Close, Newcastle-Under-Lyme	Extension to existing storage facility (class B8), 2 storey office extension and associated car park works	Travel Plan Monitoring contribution	£2,100 (Index Linked)
15/00015/OUT 26 th January 2017, but was conditional upon the grant of consent at appeal 22 nd March 2017	Tadgedale Quarry, Mucklestone Road, Loggerheads	Erection of up to 128 dwellings	25% Affordable Housing (on site)	Not Applicable
			On site open space maintenance	Not Applicable
			Secondary Education Contribution (Madeley High School)	Maximum of £232,708 depending on the numbers of school places (Index Linked)
			St. Marys School Mode Star sum (sustainable access arrangements)	£5,000
16/00874/FUL 24 th February 2017	Land West Of Barrie Gardens, Talke	10 Single storey 2 bed dwellings (Resubmission of planning application 15/00956/FUL)	Public Open Space contribution towards enhancement and maintenance of open space at Coalpit Hill	£24,352.80 (Index Linked)
16/00958/FUL 14 th March 2017	Marks And Spencer, Wolstanton Retail Park, Newcastle Under Lyme	Variation of condition 3 (To increase the amount of floorspace within the M&S store that can be used for convenience goods sales to 1,496sqm) of original planning permission 11/00611/FUL -	Same terms as original agreement concluded 18 th October 2012	

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 2016 to 31st March 2017)

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
12/00127/OUT 24 th March 2017	Land South Of West Avenue, West Of Church Street And Congleton Road, And North Of Linley Road, Butt Lane, Kidsgrove	Residential development of 172 dwellings, area of community woodland, public open space and formation of new accesses	<ul style="list-style-type: none"> • The period of time within which the Public Rights of Way Contribution can be spent was extended by a further six months i.e the contribution to be spent within 18 months. • The Mortgagee exclusion clause within the Affordable Housing Schedule was amended by deletion of reference to 'mortgagee in possession' and its replacement with the term 'mortgagee'.

Table 3 - Development where financial contributions have been made (1st October 2016 to 31st March 2017)

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. Whilst some information has been received from the County Council the Table maybe incomplete. If an update is available prior to the meeting then one will be provided.

Permission reference	Location of development	Development	Purpose of the obligation(s) subject of contributions received	Contribution made and to whom
16/00712/FUL	New Look, Pit Head Close, Newcastle-Under-Lyme	Extension to existing storage facility (class B8), 2 storey office extension and associated car park works	Travel Plan Monitoring Sum	£2,100 SCC
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	£174,715 NBC

Table 4 - Development where financial contribution have been spent. (1st October 2016 to 31st March 2017)

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
12/00512/FUL	Former Thistleberry House Residential Home, Keele Road, Newcastle Under Lyme	Demolition of existing Thistleberry House building, erection of 37 dwellings and creation of new access off Keele Road (Taylor Wimpey Development)	£90,434.00 received for the provision of educational facilities within the vicinity of the land.	<p>The County Council have spent the contribution amount on the expansion of St Giles & St George's Church of England Academy on St Paul's Road, Off Orme Road, Newcastle.</p> <p>The expansion will help to deliver a further 7 classrooms plus ancillary requirements, i.e. Toilets, fixtures and fittings, IT equipment that was needed to support a further increase of approximately 210 pupils.</p>

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.
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.	Bloor homes have now provided the toddlers play area and subject to them agreeing to maintain it for a period of 12 months the Landscape Development Section has confirmed that they are happy with the breach has been resolved. This case can now be closed.
12/00701/FUL 13 th May 2013	Former Randles Ltd, 35 Higherland, Newcastle Under Lyme	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	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. That has not happened	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 the 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>Efforts have been made to contact the owner but no response has been received. The matter has now been passed to the County Council's legal/monitoring section to progress and an update will be provided at the point that one is available.</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 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 has now been completed and the ten dwellings have been sold without the payment being made.</p> <p>The Unilateral Undertaking provides that liability for the payment transfers to any person who subsequently becomes the owner of the land which is the subject of the undertaking.</p> <p>The outstanding amount with index linking and interest applied is now £15,766.71.</p> <p>Letters have been sent out to the homeowners advising that £1576.67 per household is now due. Bills now to be issued</p>

11/00430/FUL 10 th May 2012	Land off Keele Road, Thistleberry	Replan of part of the development, incorporating 13 additional units	The obligation secured an additional POS contribution of £38,259 (index linked) to reflect the additional number of units. The payment should have been made prior to the commencement of the construction of the 48 th dwelling within the 61 unit development, but was not.	Officers will be writing again to the developer requiring payment of the indexed sum.
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