

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 20th June 2017 and covered the period between 1st October 2016 to 31st March 2017. This report now covers the period between 1st April and the 30th September 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 April 2017 to 30th September 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
16/01014/FUL, 16/01015/FUL & 16/01016/FUL 9 th June 2017	Lindsay, Horwood & Barnes Halls, Keele University, Keele	Development on the University Campus – the description of each development, as set out in the decision notices.	Travel Plan Monitoring fee	£2,200 in total for all 3 schemes (Index Linked)
			Contribution to development of real-time travel information data feed for mobile apps	£15,000 in total for all 3 schemes (Index Linked)
			Contribution to Toucan signal controlled crossing on Cemetery Road	£39,000 in total for all 3 schemes (Index Linked)
16/01107/OUT 11 th April 2017	Land at Selbourne Pinewood Road Ashley	2 residential units	Public Open Space contribution towards enhancement and maintenance of the playground at Burntwood	£5,886 (Index Linked)
16/00902/DEEM4	Land Off Deans Lane and Moss Grove, Red Street	Development of up to 50 dwellings	Unilateral Undertaking to secure visibility splays on neighbouring land at the Deans	Not Applicable

25 th August 2017			Lane/ Moss Grove junction and to keep the splays permanently clear from obstruction.	
16/00796/OUT 20 th July 2017	Former Orme Centre Orme Road, Newcastle	(A) Conversion of former Orme Centre into student accommodation, demolition of single storey toilet block and other attached buildings and red brick schoolroom; and (B) erection of a new building to provide student accommodation	Public Open Space contribution towards improvement and maintenance of Queen Elizabeth Gardens but only should a financial reappraisal be required and demonstrate one can be provided	Nil but upon appraisal up to £93,408 (index linked)
			Travel Plan Monitoring Fee but only should a reappraisal be required and demonstrate one can be provided	Nil but upon appraisal up to £2,200.00 (Index Linked)
			A contribution to fund Resident Parking Zones if established to be required, but only should a financial reappraisal be required and demonstrate one can be provided	Nil but upon appraisal up to £50,000.00 (Index Linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable
17/00179/FUL 20 th June 2017	2-4 Marsh Parade Newcastle-under-Lyme	Proposed demolition of existing buildings and the erection of a 4-storey apartment block with parking	Public Open Space contribution towards Stubbs Walk open space improvement and maintenance but only should a financial reappraisal be required and demonstrate one can be provided	Nil but upon appraisal up to £64,897.20 (Index Linked)
			Affordable housing but only should a financial reappraisal be required and demonstrate this can be provided	Nil but upon appraisal up to 25% on site
			Financial Viability Re-Appraisal Mechanism	Not Applicable

17/00193/FUL 17 th July 2017	Land East Of Home Farm Keele Road Keele	Erection of a building to be used an Innovation and Leadership Facility	Travel Plan Monitoring fee	£2,200 (Index Linked)
17/00252/FUL 21 st July 2017	Former Jubilee Baths Nelson Place Newcastle	Demolition of former swimming baths and construction of 273 room student development with associated communal area and car parking	Travel Plan Monitoring fee	£2,200 (Index Linked)
			Public Open space contribution to enhancement and maintenance (Queens Gardens)	£228,892 (Index Linked) – comprising £139,295 (Capital Sum) and £89,597 (Maintenance Sum).
			A financial contribution to fund Resident Parking Zones if established to be required	£50,000 (Index Linked)
17/00240/FUL 16 th May 2017	New Look, Pit Head Close, Lymedale	Removal of condition 4 (scheme of landscaping) of planning permission 16/00712/FUL - Extension to existing storage facility (class B8), 2 storey office extension and associated car park works	Travel Plan Monitoring fee	£2,200 (Index Linked)
			Contribution to implementation of Landscaping Plan	£17,500 (Index Linked)
17/00417/FUL 26 th September 2017	Club Heathcote Street, Chesterton	Proposed residential development of 14 dwellings	Public Open Space contribution towards Chesterton Memorial Park and/or Crackley Recreation Ground contribution but only should a financial reappraisal be required and demonstrate one can be provided	Nil but upon appraisal up to £23,202 (Index Linked)
			Contribution to Education Places at Chesterton Community High School – additional science laboratory and ancillary accommodation but only should a financial reappraisal be required	Nil but upon appraisal up to £33,244 (Index Linked)

			and demonstrate one can be provided.	
			Financial Viability Re-Appraisal Mechanism	Not Applicable
16/01036/FUL 12th April 2017	Audley Working Mens Club New Road Bignall End	Variation of condition 2 (approved plans) of planning permission 15/00692/FUL - Erection of 12 houses	Deed of Variation securing the same terms as original agreement concluded on 27 th May 2016	

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 2017 to 30th September 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), 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
17/00026/DOB 7 th April 2017	Former Corona Park Sandford Street Chesterton	Application to remove/discharge planning obligations relating to Planning Permission 10/00480/FUL - Erection of 16 terraced dwellings	Obligation discharged on the grounds that it has been demonstrated that the scheme is financially unviable with any level of affordable housing or financial contribution towards public open space.

Table 3 - Development where financial contributions have been made (1st April 2017 to 30th September 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. Whilst information has been received from the County Council your officers are seeking clarification that no payments have been received in this period. 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
17/00252/FUL	Sky Building, Former Jubilee Baths Nelson Place Newcastle Under Lyme	Demolition of former swimming baths and construction of 273 room student development with associated communal area and car parking, alternative to Planning Approval 15/00166/FUL	Public Open Space Contribution (Improvements and Redevelopment)	£139,295 NBC
16/00958/FUL	(Marks and Spencer) Wolstanton Retail Park, Newcastle	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 planning permission 11/00611/FUL - 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	£11,221 NBC

Table 4 - Development where financial contribution have been spent. (1st April 2017 to 30th September 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 Borough Council only because no money has been spent by the Education Authority during this period and no information has been received from the Highways Authority and accordingly the Table may be incomplete. Furthermore, 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
17/00252/FUL	Sky Building, Former Jubilee Baths Nelson Place Newcastle Under Lyme	Demolition of former swimming baths and construction of 273 room student development with associated communal area and car parking, alternative to Planning Approval 15/00166/FUL	Public Open Space contribution of £139,295 towards improvements and redevelopment of Queens Gardens.	.£117,000 spent on improvements works to Queens Gardens
03/01033/OUT	Former Evans Halshaw Hassell Street Newcastle (now Hassells Bridge)	Residential Development	Public Open Space contribution of £30,000	£10,000 on the landscaping of the Ryecroft/ A34 roundabout and the commissioning, manufacture and installation of the public art – 'The Bee'

Table 5 to Half yearly report on Planning Obligations - Developments where apparent breaches of planning obligation have 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.
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 some considerable time. 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. The matter has been passed to the County Council's legal/ monitoring section to progress. SCC have advised your officers that contact has been made with Tesco about the payment but discussions are ongoing. A further update will be provided if there is further information to report.

<p>15/00329/FUL</p> <p>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 were sent out to the 10 homeowners advising that £1,576.67 per household is outstanding.</p> <p>Two of the homeowners have paid the full amount. However, a number of the homeowners have contested the payment but the Council has taken the decision to pursue these payments on the basis that there are no valid reasons to write off these debts. The Revenues Manager will now be seeking payment from the</p>
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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 have written to the developer advising them of the financial contribution that is outstanding with index linking applied. An invoice has also been sent requesting payment. An update will be provided at the point that one is available.
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.	The obligation secured a financial contribution of £19,399 index linked towards off site affordable housing and £20,601 index linked towards off site public open space and a review mechanism should substantial commencement have not occurred within 12 months of the decision. The obligation required half (£9699) of the affordable housing contribution to be paid prior to commencement and half to be paid on the completion of the last dwelling. The POS contribution has to be paid in full prior to the commencement of the development.	Officers have written to the developer seeking an update on the progress of the development and when the financial contributions will be received. The developer has now advised your officers that a material commencement of the development has been achieved and that contributions will be paid in full in January 2018. Further information from the developer is being sought to establish index linking . An update will be provided there is further information available.