

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 officers review the expected new Guidance on the monitoring and reporting of planning obligations and bring forward within the next 6 months a report in the format that is expected to be recommended by the Ministry of Housing, Communities and Local Government (MCHLG).

Introduction

The last half yearly report on planning obligations was provided to the Committee at its meeting on 2nd January 2018 and covered the period between 1st April 2017 to 30th September 2017. This report now covers the period between 1st October 2017 to 31st March 2018 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.

The MCHLG in March 2018 published for reference Draft Planning Practice Guidance in support of their consultation on the revised National Planning Policy Framework. They are proposing that this Draft Guidance will form part of the Government's online Planning Practice Guidance. Members may wish to note that an entire chapter (of this draft Guidance) is devoted to the topic of viability, and within that there is a section on Accountability. The Guidance indicates that Local authorities should monitor and report on developer contributions – on the basis that it is important that developers are accountable to communities and that communities are easily able to see where contributions towards infrastructure and affordable housing have been secured and spent. The half yearly reports that have been submitted to the Planning Committee for the last 5 years or so could be considered to be an important step towards this objective, although they have only been published as Committee Reports so they are not as accessible as the Government clearly envisages they should be.

Local Authorities are expected to use all of the funding they receive in accordance with the terms of the individual planning obligation agreement.

The draft Guidance proposes that using a new Executive Summary that they envisage will be drawn up for each agreement, local authorities should record the details of each planning obligation in what is called an open data format (which is being developed by the MCHLG), and that authorities should be preparing what is called an Infrastructure Funding Statement, again on a standard open data format, that sets out infrastructure requirements, anticipated

funding from developer contributions and the choices local authorities have made about how these contributions will be used. The draft Guidance envisages such a Funding Statement being reviewed annually to report on the amount of funding received via developer contributions and how this funding has been used, and that it should be published annually online and submitted to the MCHLG as well as forming part of the Council's Annual Monitoring Report

Your officers upon the publication of the new Guidance will need to review the content and frequency of this Committee report. Accordingly it is likely that this report will be the last in the current format.

Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1st October 2017 to 31st March 2018)

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 and payment should not therefore be assumed. The significant increase in the number of undertakings and agreements entered into over the last 6 months (19) compared with the previous 6 month period ending 30th September (10) reflects the adoption by Cabinet of the Open Space Strategy in March 2017 and its subsequent implementation involving residential developments of all sizes.

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
16/01106/FUL 30 th October 2017	Former Bristol Street Ford Garage London Road Newcastle Under Lyne	Redevelopment of the site for 499 apartments (student accommodation)	Contribution to public open space and public realm improvement; & the agreement and implementation of a landscaping scheme	£1,199,396
			Travel Plan Monitoring fee	£2,245 (Index Linked)
			A contribution to fund Resident Parking Zones if established to be required	£50,000 (Index Linked)
			Contribution to Real Time Passenger Information displays (and maintenance) at the bus stops on London Road	£10,000 (Index Linked)
			Contribution to Bus shelter upgrades	£5,000 (Index Linked)
			Contribution to Local cycle network improvements from Newcastle Town Centre to Keele University and the provision of introductory bus passes	£25,300 (Index Linked)

17/00552/FUL 1 st November 2017	Corner Of Heathcote Street and Kinnersley Street Kidsgrove	Demolition of existing building and erection of 14 dwellinghouses	Public Open Space contribution towards improvements and maintenance of either Clough Hall Park and/or Birchenwood and/or the playground off Whitehill Way, but only should a financial reappraisal be required and demonstrate one can be provided	£78,106.00 (Index Linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable
17/00194/OUT 7 th November 2017	Orchard House And No. 35 Clayton Road Newcastle Under Lyme	A) Full planning permission for the demolition of Orchard House together with the conversion of No. 35 Clayton Road (previously offices) into four flats and B) Outline planning permission for the erection of up to 20 dwellings on the remaining part of the site.	25% Affordable Housing	Not Applicable
			Public Open Space contribution towards Lyme Valley Parkway	£2,943 per dwelling (Index Linked)
17/00572/FUL 8 th November 2017	Former Garage Site Land Adjacent To 56 St Martins Road Talke Pits	The construction of a pair of semi-detached houses	Public Open Space contribution towards open space towards improvement and maintenance of Chester Road, Talke play area	£5,579 (Index Linked)
17/00503/FUL 24 th November 2017	Cartref Rye Hills Audley	New infill dwelling between Cartref and extant bungalow	Public Open Space contribution towards improvement and maintenance of Station Road public open space, Miles Green	£5,579 (Index Linked)
16/00902/DEEM4 4 th December 2017	Land Off Deans Lane And Moss Grove Red Street Newcastle Under Lyme	Development of up to 50 dwellings	25% Affordable Housing	Not Applicable
			Contribution towards Secondary Education Places at Chester Community Sports College	£99,732 (Index Linked)
			Public Open Space contribution towards improvement and enhancement of Red Street open space or Barbridge Road play area	£2,943 per dwelling (Index Linked)

<p>17/00722/FUL 13th December 2017</p>	<p>2-4 Marsh Parade Newcastle Under Lyme</p>	<p>Variation of condition 2 to substitute the approved plans with revised plans which reduce the footprint, along with slight changes to the internal arrangements, alterations to site levels, revised site layout, and external elevations, of planning permission 17/00179/FUL for proposed demolition of existing buildings and the erection of a 4-storey apartment block with parking</p>	<p>Deed of Variation securing the same terms as original agreement concluded on 20th June 2017.</p>	
<p>17/00617/FUL 15th December 2017</p>	<p>Land Adjacent To School House The Drive Alsagers Bank</p>	<p>Proposed new dwelling</p>	<p>Public Open Space contribution towards the improvement and maintenance of play area to the south east of Alsagers Bank cricket club</p>	<p>£5,579 (Index Linked)</p>
<p>17/00162/FUL 19th December 2018</p>	<p>Newcastle Baptist Church London Road Newcastle Under Lyme</p>	<p>Application for the variation of condition 2 of 14/00477/FUL (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) to allow for the enclosure of the open air corridors and subsequent changes to the elevations.</p>	<p>Deed of variation securing the same terms as the original agreement concluded on 23rd October 2015 prior to grant of 14/00477/FUL</p>	

17/00486/FUL 22 nd December 2017	Land Adjacent To Halcyon Tower Road Ashley Market Drayton	Erection of a dwelling and formation of new accesses	Public Open Space contribution towards improvement and maintenance of Burntwood View/ Hugo Way play area and open space	£5,579 (Index Linked)
17/00483/FUL 15 th January 2018	8 Barford Road Newcastle Under Lyme	Proposed demolition of existing bungalow and construction of three dormer bungalows Allowed on appeal	Public Open Space contribution towards improvement and maintenance of Guernsey Drive and/or Wye Road play area/ playingfields	£11,158 (Index Linked) upon occupation
17/00174/FUL 19 th January 2018	Former Savoy Cinema / Metropolis Nightclub Newcastle Under Lyme	Demolition of the former Savoy Cinema/Metropolis Nightclub and erection of a 13 storey student accommodation building, comprising of 232 units Allowed on appeal	Free Bus Pass to each student to travel to the campus at Keele Univaersity, Staffordshire University, Stoke College or Royal Stoke Hospital	Not Applicable
			Public Open Space enhancement contribution	£220,871 (Index Linked)
			Travel Plan monitoring contribution	£2,200 (Index Linked)
			Real Time Passenger Information system maintenance contribution	£8,000 (index Linked)
			Public Realm contribution	£5,000 (Index Linked)
17/00798/FUL 6 th February 2018	The Offley Arms Poolside Madeley	Erection of 3 dwellings and conversion of outbuilding to form 1 apartment	Public Open Space contribution towards the improvement and maintenance of the parish council recreation ground at Birch Dale	£5,579 (Index Linked)
17/00956/FUL 8 th February 2018	Dunkirk Tavern Dunkirk Newcastle-under-Lyme	Change of use from Public House (class A4) into 10 bedroom student HMO (sui generis) with single storey rear extension	Public Open Space contribution towards the improvement and maintenance of Wilson Street play area or facilities at the Wammy	£4,933 (Index Linked)
17/00709/OUT	Land Off Audley Road	Residential development	Public Open Space contribution towards the	£5,579 per

9 th February 2018	Audley Road Chesterton	(maximum two dwellings)	improvement and maintenance of the play area immediately east of the site	dwelling (Index Linked)
17/00953/FUL 28 th February 2018	The Hawthorns, Keele Village And Barnes, Keele Campus, Keele	Variation of conditions H2 (changes to approved plans), H4 (provision of site accesses), H20 (further site investigations) and H22 (remediation scheme) of the Hawthorns part of planning permission 15/01004/FUL for residential development of 83 dwellings with school drop off point, shop and areas of greenspace	Deed of Variation securing the same terms as original agreement concluded on 30 th March 2016	
17/00689/OUT 8 th March 2018	Land South Of Appleton Cottage Coneygreave Lane Whitmore	Outline planning application for 3 dwellings with some matters reserved	Public Open Space contribution towards the improvement and maintenance of play area at Whitmore Village Hall	£5,579 per dwelling (Index Linked)
15/01074/FUL 6 th March 2018	Old Springs Farm Stoneyford Market Drayton	Extension to 2 existing agricultural buildings joining them	Deed of Variation securing the same terms as original agreement concluded on 12 th October 2015 under planning application 13/00245/FUL which secured a routeing agreement.	
16/00866/DEEM4 21 st March 2018	Land off Eccleshall Road, Loggerheads	Residential development for up to 55 homes with associated landscaping and infrastructure	Management agreement for the long- term maintenance of the open space on the site	Not applicable
			Contribution towards the provision of education places at Madeley High School	£99,732 (index linked assuming up to 55 dwellings with 8 being social rented housing units)
			25% affordable housing	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 2017 to 31st March 2018)

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
Nil	-	-	-

Table 3 - Development where financial contributions have been made (1st October 2017 to 31st March 2018)

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 may be 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
11/00430/FUL	Land off Keele Road, Thistleberry	Replan of part of the development, incorporating 13 additional units	Public Open Space Contribution	£41,527.67 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 October 2017 to 31st March 2018)

This Table identifies those developments where the spending authority has advised the Planning Authority that they have spent within the above period a financial contribution secured via planning obligations. The Table is intended to cover expenditure both by the County Council and by the Borough Council and accordingly may be incomplete particularly with respect to the former. 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 - 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 that the breach has now been resolved. <i>This case is now considered closed.</i>
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

				<p>being made further action may need to be taken.</p> <p>Efforts have been made to contact the owner but no response has been received. The matter has been passed to the County Council's legal/ monitoring section to progress.</p>
<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 was not paid by that date.</p>	<p>The development has now been completed and the ten dwellings have been sold without the payment being made. The developer has gone into administration.</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>Accordingly the individual houseowners were pursued for payment of their "share" of the outstanding amount.</p> <p>Eight of the 10 accounts have been settled which leaves approx. £3,150 still owed. Further efforts are being made by the Finance</p>

				Section to recover the outstanding amount with the home owners concerned.
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.	As reported in table 3 (above) the outstanding amount with index linking applied has been paid. <i>This case is now considered to be closed.</i>
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	A financial contribution of £20,601 towards public open space and £19,339 towards off site affordable housing was secured. Half of the off-site affordable housing contribution and the full amount of the POS contribution was required to be paid on or prior to the commencement of the development. That has not happened	The Council has been chasing payment of £30,781.32 (with index linking applied). The developer has recently paid £5,700 but due to the delay in payment further index linking has been applied and the outstanding balance owed is £25,127.55.