

## 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, in the light of the July 2018 Guidance on the monitoring and reporting of planning obligations and upon receipt of the expected Regulations and national open data templates, bring forward a report in a new format that is compatible with such initiatives.

### Introduction

The last half yearly report on planning obligations was provided to the Committee at its meeting on 17<sup>th</sup> July 2018 and covered the period between 1<sup>st</sup> October 2017 to 31<sup>st</sup> March 2018. This report now covers the period between 1<sup>st</sup> April 2018 to 30<sup>th</sup> September 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, contributions that have been received as a result of 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.

Since the previous half yearly report on Section 106 planning obligations the MCHLG has published the revised National Planning Policy Framework and guidance on Viability which now forms part of the Government's online Planning Practice Guidance. Members may wish to note that an entire chapter is devoted to the topic of Viability in that Guidance, and within that there is a section on Accountability. The PPG indicates that Local authorities should both 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.

The Guidance proposes that using a new Executive Summary that it is envisaged 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 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. In the publication in October 2018 as to the Government's view on the way forward following the Developer Contributions Consultation the Government has indicated that it intends to require such reporting on a formal statutory basis, but the related Regulations are currently awaited.

**Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1st April 2018 to 30th September 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 last half yearly period has seen a further rise in the number of planning obligations entered (21), compared with 19 in the period that ended 31<sup>st</sup> March 2018, and 10 in the period that ended 30<sup>th</sup> September 2017.

<b>Application reference and date of agreement or undertaking</b>	<b>Location of development</b>	<b>Development</b>	<b>Purpose of the obligation(s) entered into by developers/owners</b>	<b>The level of contribution(s) payable when development trigger achieved</b>
17/00968/FUL 4 <sup>th</sup> April 2018	Site of Former Wrinehill Garage, Main Road, Betley, Crewe, CW3 9BZ	Erection of 9 no. Dwellings, associated car parking and landscaping (amendment to approval 06/00984/FUL)	Public Open Space contribution towards surfacing improvements at Betley Village Hall	£11,158 (Index Linked)
17/00805/OUT 5 <sup>th</sup> April 2018	Land Adjacent to 49 Vernon Avenue, Audley, Stoke-on-Trent, ST7 8EG	Outline application with some matters reserved for erection of a two storey dwelling	Public Open Space contribution towards improvement and maintenance of the open space and upgrade of play equipment at Western playing fields, Queen Street, Audley	£5,579 (Index Linked)
17/00791/FUL 23 <sup>rd</sup> April 2018	Land Adjacent to Slacken Lane, Kidsgrove	Proposed 2 two bed detached bungalow	Public Open Space contribution towards improvement and maintenance of the open space and upgrade of play equipment at Townsend, Talke	£5,579 (Index Linked)
17/00281/FUL 4 <sup>th</sup> May 2018	Land Around Wilmot Drive Estate, Lower Milehouse Lane, Newcastle-under-Lyme, ST5 9AX	Development of 276 dwellings, public open space and associated infrastructure works	Off Site Affordable Housing contribution (paid in three equal payments which is to be ring-fenced for five years for Aspire Housing Ltd)	£899,570 (index linked)

			Contribution towards the provision/maintenance of Multi-Use Games Area (MUGA)	£60,000 (Index Linked)
			Off-Site Highways Works contribution	£30,000
			Travel Plan Monitoring	£6,430 (Index Linked)
			Management agreement for the long-term maintenance of on-site public open space	Not Applicable
			Financial Viability Re-Appraisal Mechanism	Not Applicable
17/00515/DEEM4 10 <sup>th</sup> May 2018	Land to the North of Bradwell Hospital, Talke Road, Bradwell	Development of up to 85 dwellings and associated access arrangements	25% Affordable Housing	Not Applicable
			Public Open Space contribution towards improvement and enhancement of the play facilities at Bradwell Dingle	£5,579 per dwelling (Index Linked)
			Contribution towards Primary Education Places at the Sun Primary Academy (formerly Bradwell Primary) or Bursley Academy	£198,558 (Index Linked)
			Residential Travel Plan Monitoring Fee	£6,430 (Index Linked)
17/00942/OUT 11 <sup>th</sup> May 2018	Garage Site, Pentland Grove, Knutton, Newcastle-under-Lyme	Demolition of existing domestic garages and construction of three 2/3 bedroom houses	Public Open Space contribution towards improvement and maintenance of Cotswold Avenue play area	£16,737 (Index Linked)
17/00984/FUL 4 <sup>th</sup> June 2018	Lymewood, The Green, East of Clayton Road	Conversion of detached garage and store to two-bedroom detached dwelling	Public Open Space contribution towards improvement and maintenance of Rydal Way play area	£5,579 (index linked)
18/00042/FUL	Sandon New Road, Madeley, Crewe, CW3 9EX	Erection of 2 two-storey semi-detached dwellings	Public Open Space contribution towards improvement and maintenance of the Daltry	£11,158 (Index Linked)

14 <sup>th</sup> June 2018			Way play area	
18/00099/OUT 19 <sup>th</sup> June 2018	Land to West` side of Brittain Avenue, Chesterton	Construction of a pair of 2 bed 4 person semi-detached houses and associated site works	Public Open Space contribution towards upgrade of local play equipment at Chesterton Memorial Park	£11,158 (index linked)
18/00188/FUL 21 <sup>st</sup> June 2018	Land Fronting Mow Cop Road, Mow Cop, Stoke-on-Trent, ST7 4NF	Detached dwelling	Public Open Space contribution towards improvement and maintenance of the Dales Green Road play area	£5,579 (Index Linked)
18/00152/FUL 3 <sup>rd</sup> July 2018	Land Adjacent to 86 Buckmaster Avenue, Newcastle-under-Lyme	Construction of 4 dwellings	Public Open Space contribution towards improvement and maintenance of the Lyme Valley Parkway playground	£5,579 (Index Linked)
18/00022/OUT 6 <sup>th</sup> July 2018	The Gables, Gravelly Hill, Ashley, Market Drayton, TF9 4JU	Outline planning application for the construction of a detached bungalow with all matters reserved except for access	Public Open Space contribution towards improvement and maintenance of the Bell Orchard play area	£5,579 (Index Linked)
18/00146/FUL 9 <sup>th</sup> July 2018	45 Stonebank Road, Kidsgrove, Stoke-on-Trent, ST7 4HQ	Construction of two storey dwelling (resubmission of 17/00531/FUL)	Public Open Space contribution towards improvement and maintenance of the Skate Park at Birchenwood Country Park, Kidsgrove	£5,579 (Index Linked)
18/00126/FUL 10 <sup>th</sup> July 2018	Land Adjacent to Falmouth Court, Stafford Avenue, ST5 4BJ	Residential development consisting of 4 bungalows, with detached garages and associated access and landscaping.	Public Open Space contribution towards improvement and maintenance of the Lilleshall Road play area	£11,158 (Index Linked)
17/00717/FUL 27 <sup>th</sup> July 2018	Land Adjacent to 261 Dimsdale Parade West, Newcastle-under-Lyme ST5 8HS	Proposed dwelling at Plot A - Change of design of previous approval 13/00868/REM	Public Open Space contribution towards improvement and maintenance of Bradwell Lodge or Bradwell Dingle	£5,579 (Index Linked)
17/01021/FUL	Cornwall House, Sandy	Change of use of Cornwall	Public Open Space contribution towards	£5,579 (Index

7 <sup>th</sup> August 2018	Lane, Newcastle-under-Lyme, ST5 0LZ	House Clinic back into a dwelling.	improvement and maintenance of the play area at Lockwood Street	Linked)
17/00514/OUT 10 <sup>th</sup> August 2018	Land South of Honeywall Lane, Newcastle-under-Lyme	Development of up to 35 dwellings including associated infrastructure	25% Affordable Housing	Not Applicable
			Public Open Space contribution towards improvement and maintenance of playground facilities at Heath Row, Madeley Heath	£5,579 per dwelling (Index Linked)
			Contribution towards Primary Education Places at Sir John Offley CE(VC) Primary School in Madeley	£77,217
			Contribution towards Secondary Education Places at Madeley High School	£83,110
18/00250/FUL 17 <sup>th</sup> August 2018	12 Stafford Avenue, Newcastle-under-Lyme ST5 3BW	Demolition of existing bungalow and erection of two bungalows	Public Open Space contribution towards improvement and maintenance of the Buckmaster Avenue play area	£5,579 (Index Linked)
17/00067/DEEM4 23 <sup>rd</sup> August 2018	Land South of Market Drayton Road, Market Drayton Road, Loggerheads, Newcastle-under-Lyme, TF9 4BT	Outline Planning Application for residential development for up to 65 dwellings with associated open space and landscaping	25% Affordable Housing	Not Applicable
			Contribution towards Secondary Education Places at Madeley High School	£132,976 (Index Linked)
			A management agreement for the long-term maintenance of the open space on the site	Not Applicable
			Unless there is onsite provision of POS then a Public Open Space contribution towards improvement and maintenance of Burntwood Play Area or similar within an appropriate walking distance.	£5,579 per dwelling (Index Linked)
18/00294/FUL 23 <sup>rd</sup> August 2018	Land South of Appleton Cottage, Coyneysgreave Lane, Whitmore, Newcastle-under-Lyme	Proposed detached dwelling on land to the south of Appleton Cottage with access off Appleton Drive	Public Open Space contribution towards improvement and maintenance of the playground facilities at Whitmore Village Hall	£5,579 (Index Linked)

18/00156/OUT 31 <sup>st</sup> August 2018	Land Adjoining Spey Drive, Kidsgrove, Stoke-on-Trent ST7 4AF	Proposed bungalow	Public Open Space contribution towards improvement and maintenance of the playground facilities at Clough Hall Park	£5,579 (Index Linked)
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**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 2018 to 30th September 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 April 2018 to 30th September 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. Whilst some information has been received from the County Council the Table may be incomplete due to difficulties experienced in obtaining this information.

Permission reference	Location of development	Development	Purpose of the obligation(s) subject of contributions received	Contribution made and to whom
15/00724/FUL	10 Sidmouth Avenue, Newcastle Under Lyme, ST5 0QN	Proposed 4 no. detached dwellings, change of use of existing building to single dwelling, demolition of part of former Childrens Home and 1 no. detached garage and change of use to form a single residential dwelling at The Birches, 10 Sidmouth Avenue	Public Open Space Contribution	£14,715  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 – sixth annual payment	£11,274  NBC

17/00968/FUL	Site of Former Wrinehill Garage, Main Road, Betley, Crewe, CW3 9BZ	Erection of 9 no. Dwellings, associated car parking and landscaping	Public Open Space Contribution	£11,158 NBC
13/00426/OUT	Land at the end of Gateway Avenue, Baldwins Gate, Staffordshire	Erection of up to 113 dwellings and associated works (subsequently 109 given detailed approval)	Travel Plan Monitoring	£2,327 SCC
			First 50% of the Primary Education Contribution	£131,255 SCC
			First 50% of the Secondary Education Contribution	£107,880 SCC
			Second 50% of the Primary Education Contribution	£132,856 SCC
			Second 50% of the Secondary Education Contribution	£109,197 SCC

**Table 4 - Development where financial contribution have been spent. (1st April 2018 to 30th September 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.

<b>Permission associated with the planning obligation as a result of which funding was received</b>	<b>Location of development referred to in the permission</b>	<b>Development</b>	<b>Amount received as a result of planning obligation and purpose of contribution as indicated in the planning obligation</b>	<b>How the contribution has been spent</b>
09/00136/OUT	Former Silverdale Colliery Scot Hay Road Silverdale	Variation of Condition B9 of 06/00337/OUT, which gave outline planning permission for the erection of buildings for residential and community use - Community Facilities	£88,106.72	Design fees for the buildings to provide the community facilities approved under 09/00698/REM.
07/00127/OUT	Lower Milehouse Lane Phase 2	Residential Development	£19,988.51 towards Public Open Space improvements/ enhancements	Installation of footpath lighting

**Table 5 - Developments where apparent breaches of planning obligations 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 & enforcement case 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.
12/00701/FUL 13 <sup>th</sup> May 2013 16/00219/207C2	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 a considerable amount of 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.  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.  An update from the County

				Council on any progress is still awaited.
15/00329/FUL  27 <sup>th</sup> May 2015	The Skylark High Street Talke	Demolition of existing public house and erection of ten dwellings	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>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 and it can now be confirmed that all 10 accounts have now been settled.</p> <p><i>This case is now considered to be closed.</i></p>
16/00609/FUL  24 <sup>th</sup> 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	<p>The Council has been chasing payment of £30,781.32 (with index linking applied).</p> <p>The developer has now paid</p>

			<p>contribution was required to be paid on or prior to the commencement of the development. The other half of the affordable housing contribution is not due until completion of the last dwelling of the approved scheme and that point has not yet been reached.</p> <p>That did not happen.</p>	<p>the outstanding amount owed.</p> <p><i>This case is now considered to be closed</i></p>
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