

## 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

### Recommendation

- a) That the report be noted

### Introduction

The last half yearly report on planning obligations was provided to the Committee at its meeting on 3<sup>rd</sup> January 2019 and covered the period between 1<sup>st</sup> April to 30<sup>th</sup> September 2018. This report now covers the period between 1<sup>st</sup> October 2018 to 31<sup>st</sup> March 2019 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.

Information that was not included in the previous half yearly report (and should have been) is also now included. This information should have been reported previously but was not picked up at the time of writing that report.

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 members will be aware that the Local Planning Authority is no longer seeking public open space contributions in respect of developments of 10 or less dwellings, other than in the circumstances expressly stated as possible in the Planning Practice Guidance. However, within Table 1 of this report the S106 planning obligations (for 10 dwellings or less) that were completed prior to this change are still identified. It is expected that there will be a reduction in the number of Section 106 Obligations being entered into following this change.

**Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1st October 2018 to 31st March 2019)**

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.

<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>
17/01001/FUL 26 <sup>th</sup> September 2018	Land To The North East Of Eccleshall Road South East Of Pinewood Road And North West Of Lower Road Hook Gate	Erection of 22 houses and bungalows with associated access roads and drainage	25% Affordable Housing	Not Applicable
			Contribution towards Secondary Education Places at Madeley High School	£33,244 (Index Linked)
			Public Open Space contribution towards improvement and maintenance of the open space/ play area at Burntwood/ Hugo Way	£80,562 (Index Linked)
17/00605/FUL  <i>10<sup>th</sup> October 2018 as part of the planning appeal which was subsequently dismissed.</i>	Land off Woodrow Way, Ashley	Erection of 10 dwellings and public open space	25% onsite Affordable Housing or an off-site commuted sum	Not Applicable
			Secondary Education contribution	£33,244 (Index Linked)
			On site open space provision and maintenance	Not Applicable
17/01015/OUT 5 <sup>th</sup> November 2018	24 Greenock Close, Newcastle	Two detached dwellings	Public Open Space contribution towards improvement and maintenance of the open space/ play area at Thistleberry Parkway	£11,158 (Index Linked)

17/00516/FUL 19 <sup>th</sup> November 2018	Loggerheads Hotel, Market Drayton Road, Loggerheads	Erection of 3 no. 4 bedroom detached houses with garages and associated turning space and landscaping	Public Open Space contribution towards improvement and maintenance of the open space/ play area at Burnwood/ Hugo Way	£16,737 (Index Linked)
17/00787/OUT <i>7<sup>th</sup> December 2018 as part of the planning appeal which was subsequently dismissed.</i>	Gravel Bank Mucklestone Road Loggerheads	Outline planning application for residential development of up to 70 dwellings including details of access	25% onsite Affordable Housing	Not Applicable
			Onsite Public Open Space Provision and Management Scheme	Not Application
			Secondary Schhol Education Contribution	£149,598 (Index Linked)
			Travel Plan Monitoring	£6,430
			Modeshift Stars Travel Scheme	£5,000
18/00259/FUL 20 <sup>th</sup> December 2018	T K Phillips Workshop, Moss Lane, Madeley	Erection of a pair of semi detached houses and a detached house	Public Open Space contribution towards improvement and maintenance of the open space/ play area at Birch Dale	£16,737 (Index Linked)
17/01033/FUL 11 <sup>th</sup> February 2019	Land At Birch House Road, Holly Road And Whitethorne Way, Chesterton	Demolition of former Community Centre and construction of 30 dwellings	Public Open Space contribution towards improvement and enhancement of public open space at Crackley Recreation Ground (Hazel Road)	£167,370 (index linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable
18/00559/FUL 28 <sup>th</sup> February 2019	Land Off Sandford Street, Chesterton	Proposed 10 no. two bedroom self-contained flats with associated parking	Public Open Space contribution towards improvement and enhancement of public open space at Crackley Play Area	£33,244 (Index Linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable

18/00183/FUL 4 <sup>th</sup> March 2019	The Orme Centre, Orme Road, Newcastle	Conversion of existing building and erection of new building to provide 112 bed student accommodation	Public Open Space contribution towards improvement and enhancement of public open space at Queen Elizabeth Park	£124, 560 (Index Linked)
			Travel Plan Monitoring fee	£2,200 (Index Linked)
			Resident Parking Zone contribution (should it be demonstrated that the development has resulted in on street parking problems)	£50,000 (Index Linked)
18/00483/FUL 14 <sup>th</sup> March 2019	Former Savoy Cinema/Metropolis Nightclub, Newcastle	Demolition of the former Savoy Cinema/Metropolis Nightclub and erection of a part 9, part 12 storey building to provide 211 rooms of student accommodation.	A 2 month introductory free Bus Pass to each student to travel to the campus at Keele University, Staffordshire University, Stoke College or Royal Stoke Hospital	Not Applicable
			Public Open Space enhancement contribution	£22,200 (Index Linked)
			Travel Plan monitoring contribution	£2,200 (Index Linked)
			Real Time Passenger Information system maintenance contribution	£8,000 (index Linked)
			Public Realm contribution	£11,000 (Index Linked)
			Improvements to the cycle route from Newcastle town centre to Keel University	10,600 (Index Linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable
18/00693/FUL 25 <sup>th</sup> March 2019	Orchard House, Clayton Road, Newcastle	Specialist accommodation for the elderly comprising of 75 Residential apartments with care, communal facilities,	Public Open Space contribution towards improvement and enhancement of public open space at Lyme Valley Parkway	£130,203 (Index Linked)

		parking and associated private amenity space for persons aged 55 and over.	Restriction of Occupancy to C2 Use Class	Not Applicable
			Travel Plan Monitoring fee	£2,360 (Index Linked)

**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 2018 to 31st March 2019)**

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
18/00314/FUL 8 <sup>th</sup> November 2018	Land South Of Mucklestone Road, Loggerheads  Deed of Variation	Erection of five residential dwellings, access and associated works	Deed of variation securing the same terms as the original agreement concluded on 28 <sup>th</sup> August 2015 prior to grant of 15/00202/OUT
17/00722/FUL 9 <sup>th</sup> November 2018	2-4 Marsh Parade Newcastle Under Lyme  Deed of Variation	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	Deed of Variation to secure a review mechanism of the scheme's ability to make a policy compliant contribution to public open space and the provision of policy-compliant on-site affordable housing, if the development is not substantially commenced within 12 months.

**Table 3 - Development where financial contributions have been made (1st October 2018 to 31st March 2019)**

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.

<b>Permission reference</b>	<b>Location of development</b>	<b>Development</b>	<b>Purpose of the obligation(s) subject of contributions received</b>	<b>Contribution made and to whom</b>
18/00188/FUL	Land Fronting Mow Cop Road, Mow Cop	Detached dwelling	Public Open Space Contribution	£5,634.60 NBC
18/00042/FUL	Sandon, New Road, Madeley	Two semi-detached dwellings	Public Open Space Contribution	£11,299.00 NBC
18/00250/FUL	12 Stafford Avenue, Newcastle Under Lyme	Demolition of existing bungalow and erection of two bungalows	Public Open Space Contribution	£5,579.00 NBC
17/00281/FUL	Land Around Wilmot Drive Estate, Lower Milehouse Lane, Newcastle Under Lyme	Development of 276 dwellings, public open space and associated infrastructure works	A financial contribution for the provision and maintenance of a Multi-Use Games Area (MUGA)	£60,000.00 NBC
16/00609/FUL	Land Adjacent The Sheet Anchor, Newcastle Road, Whitmore	The construction of 7 new houses with access road and associated landscaping	Commuted Sum towards Off Site Affordable Housing	£19,339.00 NBC
			Public Open Space Contribution	£20,601.00 NBC
15/01004/FUL	The Hawthorns, Keele Village	Proposed student	Secondary School Education Places at Madeley	£132,976.00

	And Barnes, Keele Campus, Keele	accommodation with car parking (Barnes, Keele Campus) and proposed residential development of 83 dwellings with school drop off point, shop and areas of greenspace (The Hawthorns, Keele Village).	High School (construction of two permanent classrooms)	SCC
15/00202/OUT	Land South West Of Mucklestone Road, West Of Price Close And North Of Market Drayton Road Loggerheads	Residential development of up to 78 units including provision of affordable housing, public open space and vehicular and pedestrian accesses	Secondary School Education Places	£116,354.00 SCC
			Primary School Education Places	£154,434.00 SCC
			Travel Plan Monitoring	£6,300.00 SCC



**Table 4 - Development where financial contribution have been spent. (1st October 2018 to 31st March 2019)**

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
10/00612/OUT	The former The Cavalier Public House, Riceyman Road, Bradwell	Demolition of an existing public house and redevelopment for nine residential units.	£11,693.00 for the provision of education facilities within the vicinity of the development.	Construction of three classrooms to enable the school to expand by 105 pupil places.  SCC

**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	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.
03/00880/OUT 26 <sup>th</sup> July 2005	Site of Former Packmoor Sports and Social Club, Turnhurst Road,	Residential development	Non-compliance with Clause 4.5 of S106 agreement which required a strip of land 1.5m wide either side of the centre line of	The development has been built out and inquiries have been made recently about this breach with the landowner's agent.

19/00118/207C2	Newchapel		certain Footpaths to be dedicated as highways immediately after the grant of planning permission.	An update will be provided when there is further information available.
17/00252/FUL 21 <sup>st</sup> July 2017 19/00123/207C3	Former Jubilee Baths Nelson Place, Newcastle (now the Sky Building)	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	Non-payment of part of the Residential Parking Zone Contribution (£48,000 index linked), and the Travel Plan Monitoring Fee (£2,200 index linked) required by Section 106 Agreement	<p>The payment of the complete residential parking zone contribution was by either occupation of the building or by 30th September 2017 (whichever is the earliest), and the Travel Plan Monitoring Fee by 7th August 2017. Clarification has been sought from the County Council.</p> <p>Whilst there is almost certainly a breach of these obligations, as members will be aware, the development is not occupied so the issue the payments were designed to address has not yet arisen.</p> <p>An update will be provided when there is further information available.</p>
11/00284/FUL 6 <sup>th</sup> February 2013 19/00129/207C3	Former Site Of Silverdale Station And Goods Shed Station Road, Silverdale	Erection of twenty three houses	Non-compliance with obligation requiring payment of financial contributions - £66, 689 (index linked to public open space, £55, 155 (index linked) towards primary school places and £26,244 (index linked) towards the Newcastle-under-Lyme Urban Transport Development Strategy (NTADS)	<p>When planning permission was granted it was the subject of a S106 agreement which secured certain payments as detailed and a financial viability review mechanism should development not be substantially commenced by a certain date, which might lead to a contribution to affordable housing off site.</p> <p>Evidence of substantial commencement was not received by the Local Planning Authority and on this basis it is concluded that the trigger is not achieved.</p>

				<p>Your officers have recently instructed the District Valuer to conduct a financial viability appraisal to determine whether the development can support policy complain planning obligations or any level of contributions.</p> <p>The final report of the DVS is awaited and a further update will be provided when one is available.</p> <p>In October 2018 on any approach by the developer and prior to the referral of the case to the District Valuer the developer requested that they be permitted to make payments in monthly instalments to settle the debt. This request is yet to be reported to the Committee because until the reappraisal has been completed the total sum owing is unknown. No payments appear to have been made to date</p>
<p>17/00791/FUL 24th April 2018 19/00130/207C3</p>	<p>Slacken Lane, Butt Lane</p>	<p>Erection of dwelling</p>	<p>Non-compliance with obligation requiring payment of a POS contribution of £5,579 (index linked)</p>	<p>Payment of this sum became due on 20th June 2018. The developer subsequently, following various items of correspondence, applied in February 2019 and the receipt by the Council of two appeal decisions, asked for the obligation to be discharged. The Planning Committee at its meeting on the 26th March declined this request and the developer was then informed of the decision.</p>