

## 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 18<sup>th</sup> June 2019 and covered the period between 1<sup>st</sup> October 2018 to 31<sup>st</sup> March 2019. This report now covers the period between 1<sup>st</sup> April to 30<sup>th</sup> September 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.

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. However, the format of this report and the method of reporting it may change over the next few months following a change to the Community Infrastructure Regulations and recent planning guidance published in September which requires local planning authorities, that have received developer contributions, to publish an infrastructure funding statement (IFS) summarising their developer contributions data. The first IFS must be published by the 31<sup>st</sup> December 2020 and must be reported at least once a year. The first IFS must cover a period that starts on the 1<sup>st</sup> April 2019.

Your officers are now working with other departments of the Council to prepare and develop the data format and IFS.

The next half yearly report will be reported to members in the summer of 2020 and it is envisaged that further information on the data format and IFS will be given.

**Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1st April to 30<sup>th</sup> September 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>
18/00736/OUT 11 <sup>th</sup> June 2019	Chatterley Valley, Peacock Hay Road	Hybrid planning application comprising (A) Full planning application for earthworks associated with the creation of development plateaus, access roads and associated drainage works; and (B) Outline planning application for the development of buildings falling within Use Classes B1(b), B1(c), B2 and B8 and ancillary A3/A5 with all matters reserved.	Travel Plan Monitoring	£11,325
			Traffic Regulation Order	£5,000
18/01011/FUL 4 <sup>th</sup> July 2019	Plot 3 Of The Science & Innovation Park, Keele Road, Keele	Construction of a new veterinary training school incorporating a specialist veterinary referral hospital, first opinion veterinary practice with associated access, parking, servicing and	Travel Plan Monitoring	£2,360 (Index Linked)

		landscaping detail.		
18/00698/FUL 18 <sup>th</sup> July 2019	Sites Of Horwood, Lindsay And Barnes Halls, Keele University, Keele	Demolition of 732 student bed-spaces and the erection of 20 new buildings to provide 1,685 student bedrooms (1706 student bed-spaces) and social hubs at Horwood and Lindsay Halls and the provision of car parking at Barnes and Horwood Halls.	Travel Plan Monitoring	£2,360
			Real-Time Travel Information	£15,000
			Toucan Signalled Controlled Crossing	£39,000
18/00507/OUT 30 <sup>th</sup> July 2019	Croft Farm, Stone Road, Hill Chorlton	Outline planning for the demolition of existing buildings, 1 replacement farmhouse, erection of 11 bungalows, access, parking and amenity space.	1no. Affordable Housing Unit	Not Applicable
			Off-site Public Open Space Provision	£12,000 (Index Linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable
18/00990/FUL 9 <sup>th</sup> August 2019	Bursley Primary School, Bursley Way, Bradwel	Proposed extension and internal refurbishment with external works.	Mode Shift Stars Scheme	£5,000 (Index Linked)
19/00114/FUL 15 <sup>th</sup> August 2019	Wolstanton Retail Park, Newcastle Under Lyme	Class A1 retail store, servicing and car park alterations and ancillary works.	Travel Plan Monitoring	£2,407 (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 April to 30<sup>th</sup> September 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.

<b>Application Number (if applicable) &amp; Reference Number of original related permission and date of modified /discharged agreement</b>	<b>Location of Development</b>	<b>Application</b>	<b>Decision</b>
13/00426/OUT 12 <sup>th</sup> July 2019	Land At End Of Gateway Avenue Baldwins Gate Newcastle  Deed of Variation	Erection of up to 113 dwellings and associated works	Deed of Variation to secure staircasing of the Shared Ownership (Affordable Housing) Units up to 100%.
18/00314/FUL 2 <sup>nd</sup> September 2019	Land South Of Mucklestone Road Loggerheads Market Drayton Shropshire  Deed of Variation	Application to vary condition 2 of planning permission ref 18/00314/FUL ( Erection of five residential dwellings, access and associated works) to incorporate revised landscape drawings	Deed of Variation that preserves the Council's position in respect of obligations secured prior to the grant of permission 15/00202/OUT

**Table 3 - Development where financial contributions have been made (1<sup>st</sup> April to 30<sup>th</sup> September 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.

Permission reference	Location of development	Development	Purpose of the obligation(s) subject of contributions received	Contribution made and to whom
18/00183/FUL	The Orme Centre, Orme Road, Newcastle	Conversion of existing building and erection of new building to provide 112 bed student accommodation	Travel Plan Monitoring	£2,360 SCC
			Resident Parking Zone Survey	£6,000 SCC
18/00483/FUL	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.	Public Open Space Improvements/ Enhancement	£22,000 NBC
			Public Realm Improvements	£11,000 NBC
			Travel Plan Monitoring	£2,200 SCC
			Real Time Passenger Information System Maintenance	£8,000 SCC
			Improvements to the cycle route from Newcastle	£10,600

			town centre to Keele University	SCC
17/00791/FUL	Land Adjacent To Slacken Lane, Kidsgrove, Staffordshire	Proposed 2no. 2 bed detached bungalow	Public Open Space Improvements	£5,814.92 NBC
17/01021/FUL	Cornwall House, Sandy Lane, Newcastle Under Lyme	Change of use of Cornwall House Clinic back into a dwelling.	Public Open Space Improvements	£5,579.00 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 – seventh annual payment	£11,593.91 NBC

**Table 4 - Development where financial contribution have been spent. (1<sup>st</sup> April to 30<sup>th</sup> September 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
Nil	-	-	-	-

**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	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.  An update will be provided when there is further information available.
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)	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.  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.  Your officers have 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>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.</p> <p>The payment, including the relevant interest, has now been paid.</p> <p>This case can now be closed.</p>