

QUARTERLY REPORT ON EXTENSIONS TO TIME PERIODS WITHIN WHICH OBLIGATIONS UNDER SECTION 106 CAN BE ENTERED INTO

Purpose of the Report

To provide Members with a quarterly report on the exercise by the Head of Planning of the authority to extend periods within which planning obligations can be secured by (as an alternative to refusal of the related planning application).

Recommendations

a) That the report be noted

b) That the Head of Planning continue to report, on a quarterly basis, on the exercise of his authority to extend the period of time for an applicant to enter into Section 106 obligations.

Introduction

The Committee, when resolving to permit an application subject to the prior entering into of a planning obligation, usually also agree to authorise the Head of Planning to extend the agreed period of time for an applicant to enter into the Section 106 obligations, if he subsequently considers it appropriate (as an alternative to refusing the application or seeking such authority from the Committee).

When this practice was first established it was envisaged that such an extension might be agreed where the Head of Planning was satisfied that it would be unreasonable for the Council not to allow for additional time for an obligation to be secured. It was recognised that an application would need to be brought back to Committee for decision should there have been a change in planning policy in the interim. It was agreed that your officers would provide members with a regular quarterly report on the exercise of that authority insofar as applications that have come to the Committee are concerned. The report does not cover applications that are being determined under delegated powers where an obligation by unilateral undertaking is being sought. It also does not include those situations where obligations are secured "in time".

This report covers the period between 23rd June 2020 (when the Committee last received a similar report) and the date of the preparation of this report (2nd September 2020).

In the period since the Committee's consideration of the last quarterly report, section 106 obligations have not been entered into by the dates referred to in Committee resolutions, or in subsequent agreed extensions, and extensions have been agreed with respect to some 4 applications.

The Council needs to maintain a focus on delivery of these obligations – which can become over time just as important (to applicants) as achieving a prompt consideration of applications by Committee. In some cases applicants have however little immediate requirement to complete such obligations, being content to rest upon the resolution of the Committee. Indeed it can be in their interests to delay matters in some cases, particularly where the Council has agreed to accept less than policy compliant contributions on the basis of a viability appraisal. Expectations and requirements vary considerably. It is the issuing of the decision notice, rather than the consideration of the application by the Committee, which is the basis for the measurement of whether the decision has been made "in time" insofar as the speed of determination criterion for designation of poorly performing LPAs is concerned.

Furthermore Local Planning Authorities are required, as part of the Planning Guarantee, to refund any planning fee paid if after 26 weeks no decision has been made on an application, other than in certain limited exceptions, including where an applicant and the Local Planning Authority have agreed in writing that the application is to be determined within an extended

period. This provides yet another reason for the Planning Service maintaining a clear and continued focus on timeliness in decision making, instructing solicitors and providing clarification where sought.

As from the 1st June 2018 the Service has signed up to a Staffordshire wide initiative to promote the use of a standardised Section 106 template agreement, with template schedules, which is being publicised so applicants are clear what documentation is required of them to complete the application process – with the aim of reducing delays and costs for applicants and to simplify the planning process.

In cases where extensions of the period within which an obligation may be secured have been considered appropriate your Officer's agreement to that has normally been on the basis of that should he consider there to be a material change in planning circumstances at any time short of the engrossment of the final document he retains the right to bring the matter back to the Planning Committee. Milestones are now being set in some cases. Applicants are also requested to formally agree a parallel extension of the statutory period within which no appeal may be lodged by them against the non-determination of the application, and in most cases that agreement has been provided. An application determined within such an agreed extended period is defined by the government as one that has been determined as being determined "in time".

Details of the applications involved are provided below:-

(1) Compound C and Compound E, Lymedale Cross 18/00997/FUL

This application for full planning permission for a warehouse unit and 7 no. business starter units came before the Planning Committee at its meeting on the 3rd December (at around week 31). The resolution of the Committee required an obligation to secure a travel plan monitoring fee of £2,407. The resolution included the requirement that the agreement should be completed by the 8th February.

The Obligation was not completed by the 8th February due to a number of delays on behalf of the Council but a final draft S106 obligation has been with the applicant since early June without a completed S106 Obligation being submitted and the latest period for the completion of the S106 obligation of the 29th June has passed. An update on this case will be provided to the Committee.

Some 68 weeks have now passed since receipt of the application.

(2) Morston House, Newcastle-under-Lyme 20/00282/FUL

This application for full planning permission for the conversion of the lower ground and upper ground floors of Morston House to 31 no. studio flats for students came before the Planning Committee at its meeting on the 23rd June (at around week 11). The resolution of the Committee required an obligation to secure financial contributions of £60,357 towards the enhancement of public open space and £2,443 towards travel plan monitoring. The resolution included the requirement that the agreement should be completed by the 31st July.

The agreement was not completed by the 31st July due to delays by all parties. Your officer agreed a further extension to the period to the 17th August but this date has since passed also. However, progress has been made more recently and an update on this case will be provided prior to the committee meeting.

Some 21 weeks have now passed since receipt of the application.

(3) Former Newcastle Baptist Church, London Road, Newcastle 20/00336/FUL

This application is for the variation of condition 2 of planning permission 14/00477/FUL which granted consent for the demolition of the former Newcastle Baptist Church and the erection of a residential apartment development, formation of a new access and associated car parking.

Condition 2 lists the approved drawings and the variations are to allow for changes to the site layout and to the building footprint and elevations.

The Planning Committee at its meeting on the 21st July (at around week 10). The resolution of the Committee required an obligation to preserve the Council's position in respect of obligations secured prior to the grant of permission 14/00477/FUL. The resolution included the requirement that the agreement should be completed by the 28th August.

The Obligation was not completed by the 28th August due to delays on behalf of the Council and a new deadline for completion is now required from your officer in consultation with the Councils Legal Section. An update on this case will need to be provided to the Committee.

Some 16 weeks have now passed since receipt of the application.

(4) St John the Evangelist RC School, Gloucester Road, Kidsgrove 19/00804/FUL

This application for full planning permission for a large extension to the existing school with associated new playground/net ball space, revised car parking provision and access arrangements, new fencing and landscaping came before the Planning Committee at its meeting on the 18th August (at around week 44). The resolution of the Committee required an obligation to secure a financial contribution of £5,000 for the preparation and monitoring of a Mode Shift Stars scheme to promote and encourage sustainable access to the school. The resolution included the requirement that the agreement should be completed by the 1st September.

The Obligation was not completed by the 1st September due to an unexpected issue with Title and your officer has agreed an extension to the period for the completion of the S106 to the 1st October.

Some 46 weeks have now passed since receipt of the application.

Date Report prepared

2nd September 2020