

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 the 23rd June 2020 and covered the period between the 1st October 2019 to the 31st March 2020. This report now covers the period between 1st April to the 30th September 2020 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. Members will also note that the level of information in this report is limited. Your officers assume that this is as a result of the COVID-19 pandemic whereby developments have not progressed due to the uncertainty and restrictions in place at that time.

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 2019 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 should have been published by the 31st December 2020 and should be reported at least once a year. The first IFS must cover a period that starts on the 1st April 2019.

The Council has not published an IFS and limited progress has been made in preparing the necessary information to be included in the IFS. In the meantime your officers will continue to prepare this half yearly report.

Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1st April to 30th September 2020)

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.

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
20/00123/OUT 30 th June 2020	Land West Of Pit Head Close, Lymedale Business Park, Newcastle Under Lyme.	Erection of business/industrial development of B1(c), B2 and/or B8 uses with all matters reserved except access on the site of the former Loomer Road Speedway Stadium.	Travel Plan Monitoring fee	£2,407 (Index Linked) SCC

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 30th September 2020)

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 to 30th September 2020)

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
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	£11,782.14 NBC
20/00123/OUT	Land West Of Pit Head Close, Lymedale Business Park, Newcastle Under Lyme.	Erection of business/industrial development of B1(c), B2 and/or B8 uses with all matters reserved except access on the site of the former Loomer Road Speedway Stadium.	Travel Plan Monitoring fee	£2,407.00 SCC
18/00916/FUL	Kidsgrove Working Mens	Full planning permission for the	Travel Plan Monitoring fee	£2,407.00

	Club & Hardingswood Kidsgrove	Institute, Road,	demolition of existing buildings and construction of retail store (2,206sqm GEA) (Use Class A1) and associated means of access, parking, landscaping and associated infrastructure works.		SCC
				Signal Controlled Pedestrian Crossing Provision	£10,000.00
					SCC

Table 4 - Development where financial contribution have been spent. (1st April to 30th September 2020)

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 th 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. The matter was passed to the County Council's legal/ monitoring section to progress and they have now confirmed that the decision has been taken not to pursue the NTADS sum secured under this Unilateral Undertaking. In doing so the County Council wish to set out that it is not the intention to set a precedent. This case has now been closed.
03/00880/OUT	Site of Former Packmoor Sports	Residential development	Non-compliance with Clause 4.5 of S106 agreement which	The development has been built out and inquiries have been made recently about

<p>26th July 2005 19/00118/207C2</p>	<p>and Social Club, Turnhurst Road, Newchapel</p>		<p>required a strip of land 1.5m wide either side of the centre line of certain Footpaths to be dedicated as highways immediately after the grant of planning permission.</p>	<p>this breach with the landowner's agent. An update will be provided when there is further information available.</p>
<p>17/00252/FUL 21st July 2017 19/00123/207C3</p>	<p>Former Jubilee Baths Nelson Place, Newcastle (now the Sky Building)</p>	<p>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</p>	<p>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>	<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. An update will be provided when there is further information available.</p>
<p>11/00284/FUL 6th February 2013 19/00129/207C3</p>	<p>Former Site Of Silverdale Station And Goods Shed Station Road, Silverdale</p>	<p>Erection of twenty three houses</p>	<p>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>	<p>Non-compliance with obligation requiring payment of financial contributions, as follows, have been reported to Committee</p> <ul style="list-style-type: none"> • £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>In addition the S106 agreement secured a financial viability review mechanism should development not be substantially commenced by a certain date, which might lead to a contribution to affordable housing</p>

				<p>off site.</p> <p>The District Valuer has conducted a financial viability appraisal to determine whether the development could support policy compliant planning obligations or any level of contributions towards off-site affordable housing provision. The report received concluded that the development would not be viable to contribute further payment for off-site affordable housing provision and this conclusion is accepted by your Officer. On this basis it is the payments set out above that are required.</p> <p>The final payment (which requires indexation and the addition of interest due to late payment) has now been calculated and a letter has been sent to the developer on 10th December 2020 informing them what the due payments are and seeking confirmation as to when they will be paid to the relevant Council. To date a response has not been received.</p>
18/00693/FUL	Orchard House, Clayton Road, Newcastle Under Lyme	Specialist accommodation for the elderly comprising of 75 Residential apartments with care, communal facilities, parking and associated private amenity space for persons aged 55 and over.	Non-compliance with obligation requiring payment of financial contributions - first instalment of £103,341 (index linked to public open space.	<p>The first instalment of the public open space contribution was due within three months of the commencement date of the approved development.</p> <p>It is believed that the commencement date was in early 2019 and so the payment is at least 24 months overdue.</p> <p>The applicant has been approached about the non-payment and advises that they are</p>

				<p>not in a position to make payment at this moment in time but they hope to resolve the matter as soon as possible.</p> <p>In the current economic climate your officers do not consider that it is appropriate to take formal enforcement action. The overdue payment is subject to interest from the date when the trigger for payment was achieved and this will be applied when the developer is in a position to make the payment.</p>
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