

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 2nd March 2021 and covered the period between the 1st April to the 30th September 2020. This report now covers the period between the 1st October 2020 to the 31st March 2021 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 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 October 2020 – 31st March 2021)

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
18/00997/FUL 12 th October 2020	Compound C And Compound E Lymedale Cross Lower Milehouse Lane Newcastle Under Lyme	New employment development comprising a warehouse and office unit and 7 no. Business Starter Units (Use Classes B1, B2 & B8).	Travel Plan Monitoring fee	£2,407 (Index Linked) SCC
19/00804/FUL 13 th October 2020	St John The Evangelist R C School, Gloucester Road, Kidsgrove	Construction of new two storey teaching block to move existing pupil provision from other site in Kidsgrove, along with associated new playground/net ball space, additional and revised car parking provision and access arrangements, new fencing and landscaping.	Mode Shift Stars Scheme fee	£5,000 (Index Linked) SCC
20/00336/FUL 17 th December 2020	Newcastle Baptist Church, London Road, Newcastle Under Lyme	Application for the variation of condition 2 of 14/00477/FUL (Demolition of former	Deed of Variation that preserves the Council's position in respect of obligations secured prior to the grant of permission 14/00477/FUL	N/A

		Newcastle Baptist Church and erection of residential apartment development containing 14 no. 2 bed units and 8 no. 1 bed units, formation of new access and associated car parking) to allow for the enclosure of the open air corridors and subsequent changes to the elevations and car parking		
20/00463/FUL 17 th December 2020	Land Off Watermills Road, Chesterton, Newcastle Under Lyme	Residential development of No.67 Dwellings including means of access.	25% on-site Affordable Housing	N/A
			Public Open Space Contribution towards the enhancement of public open space.	£373,793 (Index Linked) NBC
20/00282/FUL 6 th January 2021	Morston House, The Midway, Newcastle Under Lyme	Conversion of Lower Ground and Upper Ground Floors for Student Residential Development of 31 No Studio Flats.	Public Open Space Contribution towards the maintenance, improvement and enhancement to playground facilities at nearby town centre public realm and green spaces.	£60,357 (Index Linked) NBC
			Travel Plan Monitoring fee	£2,443 (Index Linked) SCC
20/00369/FUL 11 th February 2021	Land Off Cross Street, Chesterton, Newcastle Under Lyme	Demolition of all existing buildings and a) full planning permission for the development of 9 bungalows (C3 Use Class) along with car	Travel Plan Monitoring fee	£2,443 (Index Linked) SCC

		parking, landscaping and associated amenity space; and b) outline planning permission with all matters reserved except access for (i) the development of 43 dwellings (C3 Use Class) and (ii) an older persons scheme comprising 73 supported living apartments for the over 55's and associated communal facilities, along with additional car parking, landscaping and amenity space	Off-site Public Open Space Provision	£5,579 for each family home and £4,933 for each older persons accommodation (Index Linked) NBC
			Financial Viability Re-Appraisal Mechanism	Not Applicable
20/00557/FUL 11 th February 2021	One London Road, London Road, Newcastle Under Lyme	Variation of condition 2 of planning ref 16/01106/FUL (to be changed to approve minor amendments to the planning drawings).	Deed of Variation that preserves the Council's position in respect of obligations secured prior to the grant of permission 16/01106/FUL.	N/A

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 2020 – 31st March 2021)

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 October 2020 – 31st March 2021)

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
18/00960/FUL	Land Adjacent Number 86 Buckmaster Avenue Newcastle Under Lyme	Variation of condition 2 of planning permission 18/00152/FUL (for construction of 4 dwellings) to substitute plans so as to amend roof pitches and windows on plots 3 and 4 and siting of garage on plot 4.	Public Open Space Contribution towards Lyme Valley Parkway playground	£6,059.94 NBC
17/00798/FUL	The Offley Arms, Poolside, Madeley	Erection of 3no. dwellings and conversion of outbuilding to form 1no. apartment	Public Open Space Contribution towards recreation ground at Birch Dale, Madeley	£5,479 NBC
13/00426/OUT	Land At End Of Gateway Avenue, Baldwins Gate	Erection of up to 113 dwellings and associated works	Affordable Housing contribution	£389,013 NBC

Table 4 - Development where financial contribution have been spent. (1st October 2020 – 31st March 2021)

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.
03/00880/OUT 26th July 2005 19/00118/207C2	Site of Former Packmoor Sports and Social Club, Turnhurst Road, Newchapel	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 certain Footpaths to be dedicated as highways immediately after the grant of planning permission.	The development has been built out and inquiries have been made recently about this breach with the landowner’s agent. An update will be provided when there is further information available.
17/00252/FUL 21 st 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 th February 2013	Former Site Of Silverdale Station And Goods Shed	Erection of twenty three houses	Non-compliance with obligation requiring payment of financial contributions - £66, 689 (index	Non-compliance with obligation requiring payment of financial contributions, as follows, have been reported to Committee

19/00129/207C3	Station Road, Silverdale		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)	<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 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) was calculated informing them what the due payments are and seeking confirmation as to when they will be</p>
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				<p>paid to the relevant Council. To date a response has not been received.</p> <p>Additional legal advice has now been obtained with reference to exploring the Councils powers to pursue parties in respect of the breach. Based on this advice, officers are pursuing these routes with an intention to address the breach that has occurred.</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 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>