

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 14th September 2021 and covered the period between the 1st October 2020 to the 31st March 2021. This report now covers the period between the 1st April to the 30th September 2021 and sets out:

- planning obligations secured during this 6 month period,
- obligations that 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
- non-compliance with obligation 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 usually known as Section 106 agreements or undertakings as reference to the relevant section of the Town and Country Planning Act 1990.

As with previous half yearly reports the relevant Section 106 information is reported in various Tables. The format of this report is anticipated to change over future reporting cycles to reflect changes to the Community Infrastructure Regulations and the need to publish an Infrastructure Funding Statement (IFS) annually, summarising the developer contributions data.

Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1st April - 30th September 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
20/01047/FUL 14 th April 2021	Land Off Chemical Lane, Newcastle-under-Lyme	Proposed Distribution Warehouse with Offices, Parking and Vehicle Wash	Travel Plan Monitoring Fee	£2,443 SCC
20/00501/FUL 27 th May 2021	Land North Of West Avenue, Kidsgrove	Residential development for 66 dwellings (reduced from 69) with associated access, public open space and landscaping	Travel Plan Monitoring	£7,000 SCC
			9 Affordable Houses	Not Applicable
			Long Term management and maintenance of on-site Public Open Space	Not Applicable
			Financial Viability Re-Appraisal Mechanism	Not Applicable

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 - 30th September 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
21/00780/DOB	Land North Of Pepper Street, Keele	Application for the modification or discharge of planning obligations made under Section 106 of the Town and Country Planning Act relating to Section 106 Agreement dated 2 April 2015 (13/00970/OUT), the Deed of Variation dated 17 December 2019 and S106A decision dated 20 August 2020, reference 20.00431.DOB (S106A Decision).	Permitted

Table 3 - Development where financial contributions have been made (1st April - 30th September 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
19/00804/FUL	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 SCC
14/00948/OUT	Hamptons Metal Merchants And Land Adjoining Keele Road, Newcastle Under Lyme	Residential development of up to 138 dwellings	50% of the Education Places Contribution to St Giles's and St.Georges Academy	£159,949.50 SCC
			Travel Plan Monitoring	£6,300 SCC
20/01047/FUL	Land Off Chemical Lane, Newcastle-under-Lyme	Proposed Distribution Warehouse with Offices, Parking and Vehicle Wash	Travel Plan Monitoring	£2,443 SCC
20/00501/FUL	Land North Of West Avenue, Kidsgrove	Residential development for 66 dwellings (reduced from 69) with associated access, public	Travel Plan Monitoring	£7,000 SCC

		open space and landscaping		
18/01011/FUL	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 landscaping detail.	Travel Plan Monitoring	£2,491 SCC

Table 4 - Development where financial contributions have been spent. (1st April - 30th September 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
13/00426/OUT	Land At End Of Gateway Avenue, Baldwins Gate	Erection of up to 113 dwellings and associated works	£242,682 (Index Linked) toward Primary School Education Provision.	£264,111 has been spent on a project for the provision of two classrooms at Baldwins Gate Primary School.

Table 5 - Developments where apparent breaches of planning obligations have 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 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)	Legal advice has been obtained and the breach is being pursued.
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>