



# **Walsall Council**

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## *Planning Committee*

4<sup>th</sup> August 2016

### **REPORT OF HEAD OF PLANNING, ENGINEERING AND TRANSPORTATION**

#### **Section 106 Report – Financial Year 2015/16**

##### **1. PURPOSE OF REPORT**

- i) To advise Members of the out turn information relating to completed Planning Obligations (section 106 agreements/unilateral undertakings/supplemental deeds of variation) that have been negotiated with planning permissions that were granted between 1<sup>st</sup> April 2015 to 31<sup>st</sup> March 2016.
- ii) To show a break down of the number of affordable houses negotiated and the level of contributions collected and due to be collected subject to the commencement of developments related to education, open space, health and other requirements.

##### **2. RECOMMENDATIONS**

- i) That the Committee notes the report.

##### **3. FINANCIAL IMPLICATIONS**

The briefing of members as to the outcome of individual Planning Obligations together with the total sums collected within the year will help inform and assure members of the accounting probity and monitoring that is being followed by officers.

##### **4. POLICY IMPLICATIONS**

Within Council policy. All planning applications relate to local and national planning policy.

##### **5. LEGAL IMPLICATIONS**

Planning Obligations are primarily negotiated as part of the determination of planning applications in accordance with the National Planning Policy Framework 2012 (NPPF), Community Infrastructure Levy Regulations 2010 (Regulation 122), policy DEL1 of the Black Country Core Strategy, policy GP3 of Walsall Unitary Development Plan and adopted Supplementary Planning Documents.

6. **EQUALITY**

No issues arising from the report. The Development Management services have completed Equality Impact Assessments and are accredited to be in compliance.

7. **ENVIRONMENTAL IMPACT**

The impacts of planning decisions on the environment are considered as part of the consideration of the planning applications in accordance with local and national planning policies.

8. **WARD(S) AFFECTED**

All.

9. **CONSULTEES**

Legal Services

10. **CONTACT OFFICER**

Shawn Fleet, Group Manager: Planning – Extension 0453  
Michael Brereton, Senior Planning Officer – Extension 2611

11. **BACKGROUND PAPERS**

All published.

Steve Pretty, Head of Planning, Engineering and Transportation

1. This is the final in a series of quarterly reports covering financial year 2015/16. The report will subsequently be made available to all members for information. It provides a summary of all Planning Obligations (Section 106 Agreements/Unilateral Undertakings/Supplemental Deeds) that have been secured as part of the determination of planning applications in accordance with adopted policy of the Council. These details are set out in the attached appendices and Members will note that the information has been broken down into the various types of contributions.
2. Section 106 of the Town & Country Planning Act 1990 enables developers to submit unilateral undertakings, or local authorities to reach agreements with developers, for certain works to be carried out in association with a development. The Community Infrastructure Levy Regulations 2010 (Regulation 122) sets out a statutory requirement that Planning Obligations must be necessary to make the proposed development acceptable in planning terms; relevant to planning; and directly related in scale and kind to the proposed development. They must also be reasonable in all other respects.
3. The Council is required to comply with the National Planning Policy Framework (NPPF), Community Infrastructure Levy Regulations 2010 (as amended), policy DEL1 of the Black Country Core Strategy (BCCS) and policy GP3 of the Unitary Development Plan (UDP) when seeking developer contributions. The NPPF encourages Local Planning Authorities to be flexible when seeking Planning Obligations to prevent development being stalled, an approach that Walsall Council's Development Management service has already been taking over the last few years to facilitate development in the Borough and will continue to do so where necessary.
4. The Government views planning obligations as useful instruments where they are necessary to a proposed development to overcome obstacles that would otherwise result in the refusal of planning permission. They must not be used to effectively buy planning permissions.
5. The Designing Walsall and Natural Environment SPD's were revised and adopted by the Council on 24<sup>th</sup> July 2013. The previous requirement for Section 106 contributions towards Public Art on the basis of specified thresholds has been revised in the latest Designing Walsall SPD. Contributions are now only required towards Public Art and Public Realm improvements within specified locations in the borough 'where appropriate'. The draft revised Affordable Housing SPD was published for public consultation between 16<sup>th</sup> September and 28<sup>th</sup> October 2013 and is currently being reviewed and the Urban Open Space SPD is yet to be reviewed. Until the Affordable Housing and Urban Open Space SPDs have been adopted in their revised state, they will continue to be applied in their current form as Council policy.
6. The Education and Healthcare SPDs have been revoked by the Secretary of State (SOS) in February 2012 because they are out-of-date and can no longer be applied in their current form. Despite the revocation of the Education and Healthcare SPD's, contributions can still be sought for these service areas providing the Planning Obligations being sought:
  - a) Are consistent with "saved" Unitary Development Plan policy and/ or Black Country Core Strategy policy;

- b) Meet the three legal “tests” set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010;
  - c) Meet the “viability” test, which means that all or part of an obligation may be waived by the Council if it would impact on the viability of a development which is on balance, beneficial and consistent with policy objectives even without the obligation.
7. Furthermore, it has been agreed with Walsall Children’s Services that planning applications will only be considered for planning obligations towards education in developments of 30 dwellings or more (previously the threshold was more than 10 dwellings).
  8. Planning officers negotiate with applicants (and their agents) of planning applications submitted for 15 or more dwellings the provision of affordable housing in consultation with Housing Services, and for developments over 10 dwellings for the provision of open space in consultation with Leisure Services. All other requirements are considered on a case-by-case basis in consultation with the necessary service areas.
  9. The planning application is reported to the Planning Committee and the details of the proposed agreement are included in the report. At this stage this normally includes the heads of terms of what is required together with details of any reasons such as abnormal costs that the developer claims should be taken into account in reducing the requirements. Assuming the Committee resolves to approve the application Legal Services complete the Planning Obligation prior to planning permission being issued. Therefore the collection of the contribution depends on whether the planning permission is granted and then on whether the applicant actually implements the planning permission.
  10. The details of the amount to be paid (and when) or the action required is set out in the Planning Obligation. The developer pays the councils costs for solicitor and planning officer time together with a payment to help pay towards the cost of monitoring the development / agreement. As the call on monitoring developments is largely proportionate to the size of developments a monitoring payment for each obligation of a minimum of £950 or 9% of the planning application fee (whichever is the higher) is levied from the applicant. Also, given the corporate nature of the Monitoring Officer role and its linkage to the development and adoption of council-wide policies and Supplementary Planning Documents, 1.5% is also deducted from all received S106 contributions to help fund the Monitoring Officer post. Once received all funds are coded to the relevant financial code and all contributions are paid into (held on) the balance sheet code of the Regeneration directorate. The Senior Accountant then liaises with the relevant service areas and the funding is transferred to each service area concerned and expenditure is monitored by that service’s accountant.
  11. From 1<sup>st</sup> April 2015 the Government has introduced restrictions under the Community Infrastructure Regulations on the number of Section 106 contributions that can be pooled to fund an individual *“infrastructure project or type of infrastructure”*. From 1<sup>st</sup> April no more than 5 Section 106 contributions (including from agreements completed since April 2010) can be pooled to fund each individual infrastructure project or type of infrastructure. Service areas receiving contributions will need to be mindful of this when planning their expenditure whilst ensuring they are still expended in accordance with the requirements set out in each legally

binding completed S106 Agreement. Affordable Housing is not currently defined as infrastructure for the purposes of the Community Infrastructure Levy and contributions for off-site affordable housing do not therefore fall under the pooling restrictions, so they can continue to be secured through S106.

12. A Draft CIL Charging Schedule has been prepared for Walsall and went out to public consultation between Monday 7<sup>th</sup> March and Tuesday 3<sup>rd</sup> May 2016, following Cabinet approval. If adopted (anticipated for end of 2016) CIL, likely to be a charge on new residential and larger retail developments, will largely replace the use of Section 106 to help fund the boroughs infrastructure providing greater flexibility on how developer contributions are spent in order to best support development.
13. 8 Planning Obligations were completed in 2015/16 totalling £307,244.00, of which £73,458.00 has already been received and transferred to the relevant service areas to spend in accordance with the terms of each agreement. Further details are set out in Appendix A. No affordable housing units were secured during 2015/16.
14. 1 Supplemental Deed was completed during 2015/16 relating to provision of an off-site affordable housing contribution of £65,000.00 relating to the development at Neptune Public House.
15. In comparison, 6 Planning Obligations were completed in 2014/15 totalling £346,539.79 (£168,938.08 received and transferred to date) and 15 affordable housing units were secured during 2014/15.
16. Details of contributions that are due to expire over the next 12 months are set out in Appendix B.
17. Updated details for the expenditure of received Section 106 Open Space contributions is provided in Appendix C.
18. No further update on expenditure of education contributions has been received since those reported to Planning Committee of 31st March 2016.
19. A total of £1,958.00 received from the development at Former Bloxwich Engineering Ltd, Bell Lane, Walsall (09/1695/FL) was expended on design and project management costs for Bloxwich Heritage Project during Quarter 4 of 2015/16. Further expenditure planned for 2016/17.



## Appendix A - Overall S106 Contributions Sought and Received for period 01/04/2015 - 31/03/2016

<u>Application No</u>	<u>Proposal</u>	<u>Decision Date</u>	<u>Site Address</u>	<u>Service Area</u>	<u>Contribution Req'd</u>	<u>S106 Details</u>	<u>Contribution Recieved</u>	<u>Indexatio n Rx Recd</u>	<u>Date Cont</u>	<u>Cont Expiry Date</u>
14/1554/FL	Proposed demolition of Labour Club. Residential and commercial development of a new Labour club, 24 dwellings total (23 for private sale and 1 flat above club for manager only). New access road, ancillary garages/car parking, external store and smoking shelter. Affecting the setting of a public rights of way (no. Ald15).	06/05/2015	PELSALL LABOUR CLUB, CHURCH ROAD, WALSALL, WS3 4QW	Urban Open Space Contribution	£53,070.00	Towards the provision, upgrading and or maintenance of Urban Open Space in the vicinity of the development. Due prior to first occupation of the 12th dwelling within the development.	£0.00	£0.00		
15/0238/FL	Erection of 48 no. 1, 2 and 3 bedroom dwelling houses with associated ground works and access road	06/11/2015	FORMER CLOTHIER STREET PRIMARY SCHOOL, HARRY PERKS STREET, WALSALL	Urban Open Space Contribution	£72,356.13	Open space within vicinity of Willenhall area.	£72,356.13	£0.00	09/11/2015	
15/0238/FL	Erection of 48 no. 1, 2 and 3 bedroom dwelling houses with associated ground works and access road	06/11/2015	FORMER CLOTHIER STREET PRIMARY SCHOOL, HARRY PERKS STREET, WALSALL	Policy 1.5% Monitoring Charge	£1,101.87		£1,101.87	£0.00	09/11/2015	

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14/0793/FL	Demolition of former Royal Naval Club; erection of 10 no. flats with associated works (resubmission of application 10/1008/FL)	26/10/2015	FORMER ROYAL NAVAL CLUB, 120 ELMORE GREEN ROAD, WALSALL, WS3 2HS	Urban Open Space Contribution	£13,700.00	Towards provision, upgrading and or maintenance or open space within vicinity of development. Due prior to implementation works.	£0.00	£0.00		
15/0612/FL	Demolition of former accident and repair facility and erection of 10 two bedroom apartments.	02/02/2016	Brico, Stubbers Green Road, Aldridge, Walsall, WS9 8BJ	Urban Open Space Contribution	£23,060.00	Towards provision, upgrading and or maintenance of open space within vicinity of the site. Due upon first occupation.	£0.00	£0.00		
14/1537/OL	Outline application for a proposed 58 bedroom specialist care home (access, appearance, layout and scale to be determined).	16/02/2016	LAND SOUTH OF 370, CHESTER ROAD, WALSALL (FORMER BLOCK WORKS)	Other or Mixed (Please State in Detail Box)		Implement travel plan prior to implementation works. Travel Plan performance report to be submitted every three months within the first year and every 12 months thereafter for a period of 5 years. Provision of shuttle bus service.	£0.00	£0.00		

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15/0165/FL	Construction of new access off The Broadway together with new car park and associated landscaping, plus closure of access from Magdalene Road.	12/01/2016	UNIVERSITY OF WOLVERHAMPTON, WALSALL CAMPUS, GORWAY ROAD, WALSALL, WS1 3BD	Other or Mixed (Please State in Detail Box)	£120,000.00	Prior to commencement a sports pitch application shall be submitted. Within six months of submission of sports pitch application a funding application shall be submitted to the Football Association. Within 18 months of the permission or receipt of funding provide and complete a 3G Sports Pitch. Should the permission not be granted or funding not be received the existing pitches shall be improved and contribution paid (index linked).	£0.00	£0.00		



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15/0105/FL	Demolition of existing Working Men Club and construction of no. 11 residential units.	07/03/2016	PLECK WORKING MEN CLUB,502 PLECK ROAD,WALSALL, WS2 9HE	Urban Open Space Contribution	£14,366.00	Towards provision, upgrading and maintenance of open space within vicinity of development. Due prior to implementation. No spend date specified.	£0.00	£0.00		
15/1606	Demolition of the former Bulls Head public house and erection of 14 supported living units and associated communal hub.	17/03/2016	BULLS HEAD, 79, Park Road, BLOXWICH, WALSALL, Walsall, WS3 3SW	Urban Open Space Contribution	£9,590.00	Towards king George V Playing Fields including, but not limited to horticultural planting and car parking. Due prior to implementation.	£0.00	£0.00		

<b>Total Completed Planning Obligations</b>	<b>8</b>	<b>Total Sought</b>	<b>£307,244.00</b>	<b>Total Received</b>	<b>£73,458.00</b>	<b>Total Not Yet Due</b>	<b>£233,786.00</b>
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## Appendix B - Expiry dates for spend of received S106 contributions within 12 months of 25/07/2016

<u>Application No</u>	<u>Proposal</u>	<u>Decision Date</u>	<u>Site</u>	<u>Service Area</u>	<u>Contribution Req'd</u>	<u>S106 Details</u>	<u>Contribution Recieved</u>	<u>Date Cont Recd</u>	<u>Indexation Rx</u>	<u>Cont Expiry Date</u>
06/0126/OL/W1	OUTLINE Erection of 18 apartments and 51 houses including access.	16/03/2007	THE KEEP, SITE R/O HESTON AND GRANBY, STAFFORD ROAD, WEDNESBURY	Education commuted sum	£65,692.46	Towards provision of Secondary School education within reasonable proximity of site. Due on or before occupation of the last unit.	£65,692.46	16/09/2011	£0.00	16/09/2016
06/0126/OL/W1	OUTLINE Erection of 18 apartments and 51 houses including access.	16/03/2007	THE KEEP, SITE R/O HESTON AND GRANBY, STAFFORD ROAD, WEDNESBURY	Education commuted sum	£65,692.46	Towards provision of Secondary School education within reasonable proximity of site. Due on or before occupation of 42nd unit.	£65,692.46	16/09/2011	£0.00	16/09/2016
07/1492/FL/E11	Erection Of 19 Houses, Access, Parking Associated Works	27/11/2007	SITE R/O 160-164 BROAD LANE, WALSALL,	Education commuted sum	£20,687.52	Towards provision of primary education facilities within 2 miles radius and secondary education facilities within 3 miles radius of the site. Due upon commencement	£20,687.52	27/02/2012	£0.00	27/02/2017
07/1492/FL/E11	Erection Of 19 Houses, Access, Parking Associated Works	27/11/2007	SITE R/O 160-164 BROAD LANE, WALSALL,	UOS Commuted Sum	£19,229.66	Towards provision of UOS within wider area of site. Due upon commencement	£19,229.66	27/02/2012	£0.00	27/02/2017
11/1197/FL	Demolition of care home and erection of 14 detached houses with garages.	10/01/2012	Former Sanstone House Care Home, Sanstone Road, Bloxwich, WS3 3SJ	Urban Open Space Contribution	£44,531.85	Towards open space within wider vicinity of site. Due on or before site commences.	£44,531.85	29/02/2012	£0.00	29/02/2017
09/0507/FL	Proposed erection of 13 dwellings	01/04/2010	Land adjacent 18 Park Road, Willenhall, West Midlands	Urban Open Space Contribution	£17,747.73	Provision of open space within the site. Due on or before first occupation.	£17,747.73	07/06/2012	£0.00	07/06/2017
11/0105/FL	New residential development (amendment to previously approved scheme).	11/07/2012	LAND BEHIND BENTLEY MOOR CLUB, BENTLEY DRIVE, WALSALL, WEST MIDLANDS, WS2 8RY	Urban Open Space Contribution	£14,793.72	Deducted from education contribution received 03/05/2007 for 05/2300/FL/W5. Towards open space (in accordance with policies GP3, LC1(d) and Open Space SPD).	£14,793.72	27/06/2012	£0.00	27/06/2017
09/1695/FL	Proposed erection of 108 dwellings, garages and associated parking, construction of access roads, landscaping and associated works.	10/03/2010	FORMER BLOXWICH ENGINEERING LTD, BELL LANE, WALSALL,	Healthcare Contribution	£63,828.00	Due prior to or upon occupation of 30th dwelling plus BCIS index.	£63,828.00	10/07/2012	£4,924.80	10/07/2017

Appendix C - Section 106 Open Space Update - March 2016															
Capital		Value remaining	Deadline	Postcode	Virement 1	Virement 2	Virement 3	After virements							
CFR 898	Reedswood Park	52,914.00						52,914.00							
CFR 880	Arboretum Waterplay	0.00						0.00							
CFR 632	Arboretum Restoration Project £81,488 required	28,862.00				81,488.00		110,350.00	This has been tfred directly from revenue						
CFR974	King George V Playing Fields	37,806.00						37,806.00							
CFR1054	Allotment Improvement Programme	-			25,000.00			25,000.00							
CON 42	Clayhanger skatepark	-					35,931.00	35,931.00							
CFR1105	Rushall Skatepark	-					16,000.00	16,000.00							
Revenue															
Scheme number	Scheme name	Value remaining	Deadline	Postcode	Virement 1	Virement 2	Virement 3	After virements	Planned expenditure	After planned spend	Details of planned spend	Planning Ref	S106 Restrictions		
Deadlines overdue															
M	Maintanence budget	90,924.84			(25,000.00)	(81,488.00)	(51,931.00)	-67,494.16		-67,494.16					
Deadlines within current financial year															
150	Goscote Lane& Well Lane, Walsall	7,136.55	29/10/2015	WS3				7,136.55		7,136.55		07/2323/FL/E12 &	Towards provision of open space within wider area		
151	Thames Road, Goscote, Walsall	15,655.83	29/10/2015	WS3				15,655.83		15,655.83		07/2323/FL/E12 &	Towards provision of open space within wider area		
155	13-14 Bradford Street	6,731.86	31/03/2016	WS1				6,731.86		6,731.86		08/1086/FL	Towards provision of open space within wider area		
Future Deadlines															
159	Bentley Moor Club	10,930.04	27/06/2017	WS2				10,930.04		10,930.04		11/0105/FL	Towards open space.		
161	Norfolk Place	106,552.75	03/09/2017	WS2				106,552.75		106,552.75		11/1364/FL	Towards open space provision within vicinity of		
164	Victoria Avenue	33,324.96	16/04/2018	WS3				33,324.96		33,324.96		11/0516/FL	If so it should be used towards open space within		
165	The Limes Linley Road	14,667.77	01/08/2018	WS4				14,667.77		14,667.77		11/1576/FL	Towards open space within the wider vicinity of the		
166	Watermead Grange	84,664.69	29/11/2018	WS8				84,664.69		84,664.69		10/1593/FL	Towards open space.		
167	Former St Johns School	22,676.76	10/06/2021	WS9				22,676.76		22,676.76		12/0736/FL	Towards providing, servicing and maintaining		
169	Bentley Moor Club	3,842.98	20/02/2020	WS2				3,842.98		3,842.98		13/0008/FL &	Towards open space provision within vicinity of the		
171	Redhouse School	66,980.00	13/11/2020	WS9				66,980.00		66,980.00		10/1706/FL	Towards compensatory sports pitch provision		
170	Park Tavern	25,071.98	21/04/2022	WS1				25,071.98		25,071.98		13/1529/FL	open space contribution		
No deadline (although guidance states to try and spend within 5 years)															
118	Former Derby Arms, Raleigh Street	839.81		WS2				839.81		839.81		04/0845/OL/W3	Towards improvement of open space facilities in		
96	The Saddlery Investment Limited	3,363.40		WS1				3,363.40		3,363.40			Unable to locate any record based on this		
99	15-19 Selbourne St Walsall	1,360.00		WS1				1,360.00		1,360.00		03/1619/FL/W3	I don't have any record of this being received on		
138	Stackhouse Drive	2,344.30		WS3				2,344.30		2,344.30		03/1308/FL/E4	Towards provision of open space.		
139	Hawbush Rd former Welcome Stranger	3,016.66		WS3				3,016.66		3,016.66		03/1853/FL/E6	Towards provision of off site recreational facilities.		
143	Field Road(Industrial Est) Bloxwich	189.80		WS3				189.80		189.80		02/1494/FL/E2	See attached last Open Space Update Table (2013)		
152	Providence Close/Leamore Lane	1,243.00		WS3				1,243.00		1,243.00		02/1983/FL/W3	To be used towards improving public open space		
162	Brewers Drive	26,406.60		WS3				26,406.60		26,406.60		BC64477P	Maintenance of open space.		
163	Shire Oak Reservoir	44,406.01		WS9											