



Walsall Council

*Development Control
Committee*

21st April 2009

REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL

Section 106 end of Financial Year Report 2008/09

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 1st April 2008 and 31st March 2009.
- 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 Government Circular 5/2005, policy GP3 of Walsall Unitary Development Plan and adopted Supplementary Planning Documents.

6. **EQUALITY**

No issues arising from the report. The Development Control and planning enforcement 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, regional and national planning policies.

8. **WARD(S) AFFECTED**

All.

9. **CONSULTEES**

Legal Services

10. **CONTACT OFFICER**

David Elsworthy - Extension: 2409

11. **BACKGROUND PAPERS**

All published.

David Elsworthy, Head of Planning and Building Control

1. This is the fourth and final of a series of quarterly reports for financial year 2008/09 to be reported to members of this Committee and subsequently 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 give unilateral undertakings, or local authorities to reach agreements with developers, for certain works to be carried out in association with a development. Circular 05/2005 states that Planning Obligations should be necessary to make the proposed development acceptable in planning terms; are 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 national planning policy in the form of guidance notes and Government Circulars together with policy GP3 of the Unitary Development Plan (UDP). 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.
4. The Council currently collects contributions for education, affordable housing, open space, health care and public art. This follows Supplementary Planning Documents (SPD) being adopted for the Affordable Housing in April 2008, Open Space in April 2006, Health Care in January 2007, Education in March 2007, and Designing Walsall in March 2008 respectively. However, other matters such as highway, social and economic related infrastructure that can be demonstrated that they meet the requirements as set out in Circular 5/2005 are considered on a case by case basis during the application process.
5. Planning officers negotiate with applicants (and their agents) of planning applications submitted for residential development of 10 or more dwellings in consultation with Education Walsall for financial contributions where there is a lack of primary and secondary places in school catchments areas. Negotiations for affordable housing are triggered for developments of 15 or more dwellings in consultation with Housing Services, health contributions are required for developments of 30 or more dwellings as set out in the UDP. Public art contributions are included within recently adopted 'Designing Walsall SPD which require a contribution of £350 per dwelling for schemes over 15 units and £5 per sq. m up to 2000 sq. m and thereafter £3 per sq. m for floor space over 2000 sq. m for non residential schemes.
6. The planning application is reported to the Development Control 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.

7. 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 staff time together with a set payment to help pay the cost of monitoring the development / agreement. As the call on monitoring developments is largely proportionate to the size of developments, from 1st January 2008 a new monitoring payment was introduced for each planning obligation – a minimum of £950 or 9% of the planning application fee (whichever is the highest). Also, given the corporate nature of the *Policy* Monitoring Officer role and its linkage to the development and adoption of council wide policies and Supplementary Planning Documents, as from 1st April 2008 1.5% is deducted from all received S106 contributions to help fund this 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 area and the funding is transferred to the service area concerned and expenditure is monitored by that service's accountant.
8. A total of 16 planning obligations were completed in the first, second and third quarters of 2008/9 totalling £1,430,599.10 in contributions plus the requirement to provide approximately 68 affordable dwellings.
9. A total of 1 planning obligation was completed in the fourth quarter of 2008/9 totalling £9,113.00 in contributions. No provision of affordable dwellings was included within this particular planning obligation.
10. This shows that a total of 18 planning obligations have been completed for the whole of financial year 2008/9 totalling **£1,439,712.10** in contributions plus the requirement to provide approximately 68 affordable dwellings. Of these 7 payments totalling **£120,858.51** have been received which have been forwarded to the appropriate service areas. None of the affordable units have been completed to date. The received contributions total £58,605.04 for education, £49,316.39 for urban open space, £11,158.08 for Public Art and £1,779.00 for Tree related works. Furthermore, the 1.5% Policy deductions (details set out at point 7 of this report) in relation to the above received contributions have been calculated at £1,834.39 and transferred to Planning Policy. A full breakdown of agreements, requirements and contributions received are set out in the attached appendices marked as A and C.
11. A total of 4 supplemental deeds have been completed in financial year 2008/9 varying the terms of previously completed planning obligations. Two of the supplemental deeds vary the type of affordable housing provision from shared ownership to affordable rented properties. Out of the remaining two supplemental deeds; one varies the term for a required bond sum from a 20 year bond to a rolling 3 year bond over a period of 20 years and the last remaining supplemental deed removes all requirements within the original S106 which included 11 affordable dwellings and financial contributions of £125,573.20 towards education, £75,707.10 towards healthcare and £60,658.00 towards open space. A full breakdown is set out in attached 'Appendix B'.

12. This is particularly disappointing in comparison to the out turn position for the whole of financial year 2007/8 when 35 Planning Obligations were completed totalling **£3,819,961.68** in contributions plus the requirement to provide approximately 217 affordable dwellings. Clearly this is due to the economic down turn in building activity and is a representation of the overall planning application activity for the financial year 2008/9. Of these 21 payments have been received to date totalling **£568,044.69** which have been forwarded to the appropriate service areas. These total £201,395.18 for education, £200,549.51 for open space, £121,100.00 for Highways and £45,000.00 for others. Furthermore, the 1.5% Policy deductions (details set out at point 7 of this report) in relation to the above received contributions have been calculated at £3,373.18 and transferred to Planning Policy.
13. Details (where available) of expiry dates that have been attached to received contributions as required within each associated planning obligation are set out in the attached 'Appendix D'.



Appendix B - Supplemental Deeds for period 01/04/2008 - 31/03/2009

<u>Application No</u>	<u>Proposal</u>	<u>Date of Deed</u>	<u>Site Address</u>	<u>LNP</u>	<u>Details</u>
06/1118/FL/W2	Redevelopment of site for new residential development of 134 units and associated works, including access alterations.	06/06/2008	LAND OFF LEAMORE LANE, ADJACENT TO WYRLEY & ESSINGTON CANAL, AND RAILWAY, WALSALL, WEST MIDLANDS	St Matthews and Birchills Leamore	Deed of variation dated 06/06/2008 supersedes the definition and requirement of affordable housing within original agreement dated 07/06/2007 to provide total 13% affordable units as Social Rented instead of Shared Ownership.
02/2417/OL/E2	An application for outline planning permission to redevelop the former St Margaret's Hospital for residential development, alterations to existing access at Queslett Road including repositioning of C20th gate posts and associated development. Application accompanied by an Environmental Statement and Master Plan providing up to a maximum of 445 dwellings and Design Statement.	26/11/2008	St Margarets Hospital, Queslett Road, GREAT BARR	Pheasey and Paddock	Deed of variation dated 26/11/2008 amends the requirement of affordable housing provision within original S299A agreement dated 31/03/2004 to enable General Needs Rented Housing Units to be offered as part of or instead of 15% Shared Ownership units for each phase of the development.
07/1617/FL/E11	Demolition of existing buildings and erection of 57no. two, three, four and five bedroom dwellings, garages and access road.	23/03/2009	Land at 39-67 Enterprise Drive, off Bridle Lane, Streetly	Aldridge South and Streetly	Deed of Variation dated 23/03/2009 removes all S106 requirements within original S106 dated 18/10/2007.
02/0069/FL/E2	Residential development & associated works.	04/03/2009	Land at, Aldridge Road, Streetly, SUTTON COLDFIELD	Aldridge South and Streetly	Supplemental deed dated 04/03/2009 varies terms of the required bond sum under original S106 dated 09/09/2002.

**Total Completed
Supplemental
Deeds**

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