



28th October 2008

REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL

Section 106 2nd Quarter 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) that have been negotiated with planning permissions that were granted between 1st July 2008 and 30th September 2008.
- 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. **EQUAL OPPORTUNITY IMPLICATIONS**

None arising from the report.

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**

None

10. **CONTACT OFFICER**

David Elsworthy - Extension: 2409

11. **BACKGROUND PAPERS**

All published.

David Elsworthy, Head of Planning and Building Control

1. This is the second 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) 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 then officers instruct Legal Services to 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 has been 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% will be deducted from all received S106 contributions to 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 **3** planning obligations were completed in the second quarter of 2008/9 totalling **£383,328.00** in contributions plus the requirement to provide approximately **40** affordable dwellings. Of these no payments have been received to date. A full breakdown of agreements, requirements and contributions are set out in the attached appendices.
9. This is particularly disappointing in comparison to the out turn position for the second quarter of financial year 2007/8 when **7** Planning Obligations were completed totalling **£1,157,804.85** in contributions plus the requirement to provide approximately **114** affordable dwellings. Clearly this is due to the economic down turn in building activity and is a representation of the overall planning application position so far this year. Of these 3 payments have been received to date totalling **£84,234.95** which has been forwarded to the appropriate service areas. These total £22,109.95 for education and £62,125.00 for open space.



Appendix 1 - S106 Contributions Sought and Received for period 01/07/2008 - 30/09/2008

<u>Application No</u>	<u>Proposal</u>	<u>Decision Date</u>	<u>Site Address</u>	<u>Ward</u>	<u>Service Area</u>	<u>Contribution Req'd</u>	<u>S106 Details</u>	<u>Contribution Recieved</u>	<u>Date Cont Recd</u>	<u>Cont Expiry Date</u>
07/2228/FL/W7	Erection of four and five storey building for a retirement village comprising 144 apartments and associated communal facilities together with associated car parking, landscaping and revised access arrangements.	02/07/2008	LAND AT BENTLEY ROAD NORTH,WALSALL.	Bentley & Darlaston North	Healthcare Contribution	£8,865.00	Towards provision of Healthcare within vicinity of wider area of the site. Due on commencement.	£0.00		
07/2228/FL/W7	Erection of four and five storey building for a retirement village comprising 144 apartments and associated communal facilities together with associated car parking, landscaping and revised access arrangements.	02/07/2008	LAND AT BENTLEY ROAD NORTH,WALSALL.	Bentley & Darlaston North	Urban Open Space Contribution	£8,865.00	Towards prvision of open space within the vicinity of the wider area of the site. Due on commencement.	£0.00		
07/2228/FL/W7	Erection of four and five storey building for a retirement village comprising 144 apartments and associated communal facilities together with associated car parking, landscaping and revised access arrangements.	02/07/2008	LAND AT BENTLEY ROAD NORTH,WALSALL.	Bentley & Darlaston North	Policy 1.5% Monitoring Charge	£135.00	Deducted from Healthcare contribution. Due on commencement.	£0.00		

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07/2228/FL/W7	Erection of four and five storey building for a retirement village comprising 144 apartments and associated communal facilities together with associated car parking, landscaping and revised access arrangements.	02/07/2008	LAND AT BENTLEY ROAD NORTH,WALSALL.	Bentley & Darlaston North	Expiry date for contribution		Any unused contributions together with any interest accrued will be returned to payee within one month of five years from date of payment.	£0.00		
07/2228/FL/W7	Erection of four and five storey building for a retirement village comprising 144 apartments and associated communal facilities together with associated car parking, landscaping and revised access arrangements.	02/07/2008	LAND AT BENTLEY ROAD NORTH,WALSALL.	Bentley & Darlaston North	Policy 1.5% Monitoring Charge	£135.00	Deducted from UOS contribution. Due on completion of 50% of dwellings.	£0.00		

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07/2228/FL/W7	Erection of four and five storey building for a retirement village comprising 144 apartments and associated communal facilities together with associated car parking, landscaping and revised access arrangements.	02/07/2008	LAND AT BENTLEY ROAD NORTH,WALSALL.	Bentley & Darlaston North	Policy 1.5% Monitoring Charge	£270.00	Deducted from Healthcare contribution. Due on completion of final dwelling.	£0.00		
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07/2228/FL/W7	Erection of four and five storey building for a retirement village comprising 144 apartments and associated communal facilities together with associated car parking, landscaping and revised access arrangements.	02/07/2008	LAND AT BENTLEY ROAD NORTH,WALSALL.	Bentley & Darlaston North	Urban Open Space Contribution	£17,730.00	Towards prvision of open space within the vicinity of the wider area of the site. Due on completion of final dwelling.	£0.00		
07/2228/FL/W7	Erection of four and five storey building for a retirement village comprising 144 apartments and associated communal facilities together with associated car parking, landscaping and revised access arrangements.	02/07/2008	LAND AT BENTLEY ROAD NORTH,WALSALL.	Bentley & Darlaston North	Healthcare Contribution	£8,865.00	Towards provision of Healthcare within vicinity of wider area of the site. Due on completion of 50% of dwellings.	£0.00		
07/2228/FL/W7	Erection of four and five storey building for a retirement village comprising 144 apartments and associated communal facilities together with associated car parking, landscaping and revised access arrangements.	02/07/2008	LAND AT BENTLEY ROAD NORTH,WALSALL.	Bentley & Darlaston North	Healthcare Contribution	£17,730.00	Towards provision of Healthcare within vicinity of wider area of the site. Due on completion of final dwelling.	£0.00		
07/2661/RM/W7	Erection of 262 no. dwellings with associated works (Reserved Matters to Outline application 07/0029/OL/W5).	08/08/2008	FORMER T.R.W. AUTOMOTIVE SYSTEMS LTD,WODEN ROAD WEST,WEDNESBURY,WALSALL	Darlaston South	Urban Open Space Contribution	£197,000.00	Due prior to occupation of 50th dwelling.	£0.00		

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07/2661/RM/W7	Erection of 262 no. dwellings with associated works (Reserved Matters to Outline application 07/0029/OL/W5).	08/08/2008	FORMER T.R.W. AUTOMOTIVE SYSTEMS LTD,WODEN ROAD WEST,WEDNESBURY,WALSALL	Darlaston South	Primary and/or Sec Edu Cont	£98,500.00	Due prior to occupation of 50th dwelling.	£0.00		
07/2661/RM/W7	Erection of 262 no. dwellings with associated works (Reserved Matters to Outline application 07/0029/OL/W5).	08/08/2008	FORMER T.R.W. AUTOMOTIVE SYSTEMS LTD,WODEN ROAD WEST,WEDNESBURY,WALSALL	Darlaston South	Policy 1.5% Monitoring Charge	£1,500.00	Deducted from Education contribution. Due prior to occupation of 50th dwelling.	£0.00		
07/2661/RM/W7	Erection of 262 no. dwellings with associated works (Reserved Matters to Outline application 07/0029/OL/W5).	08/08/2008	FORMER T.R.W. AUTOMOTIVE SYSTEMS LTD,WODEN ROAD WEST,WEDNESBURY,WALSALL	Darlaston South	Policy 1.5% Monitoring Charge	£3,000.00	Deducted from UOS contribution. Due prior to occupation of 50th dwelling.	£0.00		
08/0727/FL	Erection of a Proposed Warehouse (Use Class B8) with Associated Offices, Canopy and Access Ramp.	15/08/2008	LAND ADJACENT TO ACERINOX UK LTD, HEATH ROAD, DARLASTON, WALSALL.	Bentley & Darlaston North	Expiry Date for Contribution		To return any unused contribution including accrued interest within one month of five years from date of payment.	£0.00		
08/0727/FL	Erection of a Proposed Warehouse (Use Class B8) with Associated Offices, Canopy and Access Ramp.	15/08/2008	LAND ADJACENT TO ACERINOX UK LTD, HEATH ROAD, DARLASTON, WALSALL.	Bentley & Darlaston North	Policy 1.5% Monitoring Charge	£169.92	1.5 % deducted from public art contribution.	£0.00		

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08/0727/FL	Erection of a Proposed Warehouse (Use Class B8) with Associated Offices, Canopy and Access Ramp.	15/08/2008	LAND ADJACENT TO ACERINOX UK LTD, HEATH ROAD, DARLASTON, WALSALL.	Bentley & Darlaston North	Public Art	£11,158.08	Due on commencement.	£0.00		
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Total Completed Planning Obligations

3

Total Sought

£383,328.00

Total Received

£0.00

Total Not Yet Due

£383,328.00