



13<sup>th</sup> August 2009

## REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL

### **Section 106 1<sup>st</sup> Quarter Financial Year Report 2009/10**

#### **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 2009 and 30<sup>th</sup> June 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 first of a series of quarterly reports for financial year 2009/10 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 1<sup>st</sup> April 2008 1.5% is 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 first quarter of 2009/10 totalling £75,957.90 in contributions. Of these 1 payment has been received to date totalling £466.24 towards Public Art Human Resources. There has been no provision of affordable dwellings for this quarter. A full breakdown of agreements, requirements and contributions are set out in the attached 'Appendix A'.
9. A total of 2 supplemental deeds have been completed in the first quarter of 2009/10 the first amends the description and layout of a development and the second removes 4 reduced market affordable dwellings and amends affordable housing provision within original agreement to enable 6 General Needs Rented Housing Units to be offered instead of 6 Shared Ownership units. A full breakdown of these deeds is set out in attached 'Appendix B'.
10. This is particularly disappointing in comparison to the out turn position for the first quarter of financial year 2008/9 when 10 Planning Obligations were completed totalling £991,281.10 in contributions plus the requirement to provide approximately 28 affordable dwellings. Clearly this is due to the economic down turn in building activity and is a representation of the overall recent planning application activity. Of these 2 payments have been received to date totalling £84,564.90 which have been forwarded to the appropriate service areas. These total £41,860.04 (including late payment interest charges) for education and £41,436.39 (including late payment interest charges) for open space. 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 £1,268.47 and transferred to the Planning Policy team.
11. 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 C'.



## Appendix A - Overall S106 Contributions Sought and Received for period 01/04/2009 - 30/06/2009

<u>Application No</u>	<u>Proposal</u>	<u>Decision Date</u>	<u>Site Address</u>	<u>LNP</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>
08/1955/FL	Demolition of existing factory units and erection of 12 dwellings (4 x 2 bed, 6 x 3 bed & 2 x 4 bed)	06/04/2009	LAND C/O (OPPOSITE NO'S 57-69),REVIVAL STREET,WALSALL ,WS3 3HR	Blakenall and Bloxwich	Secondary School Education Contribution	£29,754.79	Towards Secondary School provision in accordance with GP3 of UDP and SPD. Due on or before commencement.	£0.00	£0.00		
08/1955/FL	Demolition of existing factory units and erection of 12 dwellings (4 x 2 bed, 6 x 3 bed & 2 x 4 bed)	06/04/2009	LAND C/O (OPPOSITE NO'S 57-69),REVIVAL STREET,WALSALL ,WS3 3HR	Blakenall and Bloxwich	Policy 1.5% Monitoring Charge	£453.11	Deducted from Education contribution.	£0.00	£0.00		
08/1955/FL	Demolition of existing factory units and erection of 12 dwellings (4 x 2 bed, 6 x 3 bed & 2 x 4 bed)	06/04/2009	LAND C/O (OPPOSITE NO'S 57-69),REVIVAL STREET,WALSALL ,WS3 3HR	Blakenall and Bloxwich	Urban Open Space Contribution	£22,940.65	Towards provision of Open Space within the vicinity of the wider area of the site. Due on or before commencement.	£0.00	£0.00		
08/1955/FL	Demolition of existing factory units and erection of 12 dwellings (4 x 2 bed, 6 x 3 bed & 2 x 4 bed)	06/04/2009	LAND C/O (OPPOSITE NO'S 57-69),REVIVAL STREET,WALSALL ,WS3 3HR	Blakenall and Bloxwich	Policy 1.5% Monitoring Charge	£349.35	Deducted from Open Space contribution.	£0.00	£0.00		

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08/1955/FL	Demolition of existing factory units and erection of 12 dwellings (4 x 2 bed, 6 x 3 bed & 2 x 4 bed)	06/04/2009	LAND C/O (OPPOSITE NO'S 57-69),REVIVAL STREET,WALSALL ,WS3 3HR	Blakenall and Bloxwich	Expiry Date for Contribution		Unused parts of contributions to be returned within 5 years and 1 month from date of payment.	£0.00	£0.00			
09/0030/FL	Re-submission of 08/0916/FL: Construction of a Waste Transfer Station	03/06/2009	EMPIRE WORKS,STUBBER S GREEN ROAD,WALSALL, WS9 8BL	Pelsall and Rushall-Shelfield	Public Art 8% Costs	£466.24	Due on date of completion of agreement. Journal ref RNS MP 240709 058 M PADDOCK.	£466.24	£0.00	11/06/2009		
09/0030/FL	Re-submission of 08/0916/FL: Construction of a Waste Transfer Station	03/06/2009	EMPIRE WORKS,STUBBER S GREEN ROAD,WALSALL, WS9 8BL	Pelsall and Rushall-Shelfield	Public Art	£5,281.33	Towards provision of Public Art. Due on or before commencement.	£0.00	£0.00			
09/0030/FL	Re-submission of 08/0916/FL: Construction of a Waste Transfer Station	03/06/2009	EMPIRE WORKS,STUBBER S GREEN ROAD,WALSALL, WS9 8BL	Pelsall and Rushall-Shelfield	Policy 1.5% Monitoring Charge	£80.43	Deducted from Public Art contribution. Due on or before commencement.	£0.00	£0.00			
09/0030/FL	Re-submission of 08/0916/FL: Construction of a Waste Transfer Station	03/06/2009	EMPIRE WORKS,STUBBER S GREEN ROAD,WALSALL, WS9 8BL	Pelsall and Rushall-Shelfield	Expiry Date for Contribution		Any unused contribution to be repaid within one monthly of 5 years from date of payment of contribution.	£0.00	£0.00			
09/0030/FL	Re-submission of 08/0916/FL: Construction of a Waste Transfer Station	03/06/2009	EMPIRE WORKS,STUBBER S GREEN ROAD,WALSALL, WS9 8BL	Pelsall and Rushall-Shelfield	Other or Mixed (Please State in Detail Box)		Submit landscape scheme to Council and BWB three months prior to commencement.	£0.00	£0.00			

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09/0030/FL	Re-submission of 08/0916/FL: Construction of a Waste Transfer Station	03/06/2009	EMPIRE WORKS,STUBBER S GREEN ROAD,WALSALL, WS9 8BL	Pelsall and Rushall-Shelfield	Other or Mixed (Please State in Detail Box)		Carry out approved Landscape works within first available planting season.	£0.00	£0.00		
09/0030/FL	Re-submission of 08/0916/FL: Construction of a Waste Transfer Station	03/06/2009	EMPIRE WORKS,STUBBER S GREEN ROAD,WALSALL, WS9 8BL	Pelsall and Rushall-Shelfield	Other or Mixed (Please State in Detail Box)		Maintain Landscaping works for 10 years from date of completion of Landscape works. Any tree shrub or plant that dies, damaged or diseased within this period to be replaced like for like.	£0.00	£0.00		
09/0215/FL	Proposed demolition of existing warehouse and construction of 12 new 2 bedroom apartments	04/06/2009	LAND CORNER OF LEVE LANE/JOHN STREET,WILLENHALL,WALSALL	Willenhall	Urban Open Space Contribution	£16,382.52	Towards provision of public open space within the wider area of the site. Due on commencement.	£0.00	£0.00		
09/0215/FL	Proposed demolition of existing warehouse and construction of 12 new 2 bedroom apartments	04/06/2009	LAND CORNER OF LEVE LANE/JOHN STREET,WILLENHALL,WALSALL	Willenhall	Policy 1.5% Monitoring Charge	£249.48	Deducted from Open Space contribution.	£0.00	£0.00		

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09/0215/FL	Proposed demolition of existing warehouse and construction of 12 new 2 bedroom apartments	04/06/2009	LAND CORNER OF LEVE LANE/JOHN STREET,WILLENHALL,WALSALL	Willenhall	Expiry Date for Contribution		Upon receipt of written request, any unused contribution to be repaid within one month of 7 years from the date of payment.	£0.00	£0.00		
Total Completed Planning Obligations		3	Total Sought	£75,957.90	Total Received	£466.24	Total Not Yet Due	£75,491.66			