



Walsall Council

Planning Committee

07th January 2016

REPORT OF HEAD OF PLANNING, ENGINEERING AND TRANSPORTATION

Section 106 Report – Quarter 2 of 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 1st July 2015 to 30th September 2015.
- 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 second 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 24th 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 16th September and 28th 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 1st 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 1st 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 Preliminary Draft CIL Charging Schedule has been prepared for Walsall and went out to public consultation between 7th September and 2nd November 2015, following Cabinet approval on 22nd July. If adopted (anticipated for 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. No Planning Obligations were completed in Quarter 2 of 2015/16 and no affordable housing units were secured during this period.
14. No Supplemental Deeds were completed during this period.
15. In comparison, 1 Planning Obligation was completed in Quarter 2 of 2014/15 totalling £139,000 towards Highways improvement works as part of outline permission for residential development at Goscote. This contribution has been received in full and transferred to the appropriate service area for expenditure.
16. Details of contributions that are due to expire between December 2015 and December 2016 are set out in Appendix A.
17. Updated details for the expenditure of received Section 106 Open Space contributions is provided in Appendix B.
18. Updated details for the expenditure of received Section 106 Education contributions are to follow.
19. £140.11 out of the received contribution from the Willenhall Morrison's development money has been expended on fees for the Willenhall Lock Memorial project.



Appendix A - Expiry dates for spend of received S106 contributions within 12 months of 11/12/2015

<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>
08/0059/FL	Proposed demolition of existing buildings and erection of 96 dwellings with associated development, landscaping and infrastructure.	26/10/2009	LAND AT CARTBRIDGE LANE SOUTH,WALSALL	Secondary School Education Contribution	£78,068.14	Towards provision of secondary education facilities within a 3 mile radius of the site. 50% due prior to occupation of 50% of dwellings.	£78,068.14	27/02/2013	£0.00	27/02/2016
08/1086/FL	Demolition of extension and some outbuildings. Conversion and extension of nos. 13 & 14 to form 2 shops with new shopfronts and 4 flats with external staircase to the rear. Conversion of Tannery building to 6 flats, construction of one bedroom dwelling. Conversion of outbuilding to dwelling.	09/03/2009	13-14,BRADFORD STREET,WALSALL ,WS1 1PB	Urban Open Space Contribution	£8,976.31	Due on or before occupation of any flat or dwelling in the development. Phased payments from October 2010 to March 2011. Full amount settled as at 31/03/2011.	£8,976.31	31/03/2011	£0.00	31/03/2016
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
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

APPENDIX B OPEN SPACE EXPENDITURE

Capital		Value remaining	Deadline	Postcode	Virement 1	After virements
CFR 898	Reedswood Park	52,914.00				52,914.00
CFR 880	Arboretum Waterplay	0.00				0.00
	Arboretum Restoration Project £81,488 required	28,862.00				28,862.00
CFR974	King George V Playing Fields	12,806.00				12,806.00
CFR1054	Allotment Improvement Programme				25,000.00	25,000.00

Revenue

Scheme number	Scheme name	Value remaining	Deadline	Postcode	Virement 1	After virements	Planned expenditure	After planned spend	Details of planned spend	Planning Ref	S106 Restrictions
Deadlines overdue											
M	Maintenance budget	84,767.61			(25,000.00)	59,767.61		59,767.61			
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 & 07/2340/FL/E9	Towards provision of open space within wider area of site.
151	Thames Road, Goscote, Walsall	15,655.83	29/10/2015	WS3		15,655.83		15,655.83		07/2323/FL/E12 & 07/2340/FL/E9	Towards provision of open space within wider area of site.
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 of site.
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 wider area of site.
164	Victoria Avenue	41,655.96	16/04/2018	WS3		41,655.96		41,655.96		11/0516/FL	If so it should be used towards open space within wider area of the site.
165	The Limes Linley Road	14,642.77	01/08/2018	WS4		14,642.77		14,642.77		11/1576/FL	Towards open space within the wider vicinity of the site.
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 public open space within vicinity of development.
169	Bentley Moor Club	3,842.98	20/02/2020	WS2		3,842.98		3,842.98		13/0008/FL & 13/0090/FL	Towards open space provision within vicinity of the site.
170	Park Tavern	25,071.98	21/04/2022	WS1		25,071.98		25,071.98		13/1529/FL	
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 the wider area.
96	The Saddlery Investment Limited	3,363.40		WS1		3,363.40		3,363.40			Unable to locate any record based on this description.
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 the S106 database.
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) provided to me.
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 facilities in the wider area.
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		44,406.01		44,406.01		06/2209/OL/E9	If so it should be used towards provision of urban open space.
168	Fomer Jebbron works	41,862.50		WS10		41,862.50		41,862.50		13/1056/FL	Towards urban open space, in particular Kings Hill Park
	Capital	94,582.00			25,000.00	119,582.00					
	Revenue	549,361.86			(25,000.00)	524,361.86	0	524,361.86			

APPENDIX C
EDUCATION S106 CONTRIBUTIONS REGISTER
Balances as at 31 March 2015 - Updated 4th January 2016

Application No	Development Name	Conditions Attached	Amount Agreed	Commit By Date	Cabinet / CS Cap Prog Board Date	School	LNP	Allocated to	Received to Date	Spend to date	Balance
02/2417/OL/E2	St Margaret's Hospital site	Secondary Sector. 2 further contributions of £350k each due on completion of 150 & 350 Dwellings on site plus further sum on completion of development. Exact amount to be calculated according to formula depending on exact number of dwellings built	£576,523	29/10/2015	13/10/2010 and 20/10/15	Barr Beacon Language College and £4333 to Shepwell School	Pheasey and Paddock	Barr Beacon Language College Provision For Additional Accommodation and Shepwell School Improvement / Capacity Works	£576,523	£576,523	£0
05/2039/FL/E4	Binary House, Boatmans Lane, Walsall	Secondary Sector. Due on or before 50% Apartments occupied.	£45,046	none		Funding Still To Be Allocated To A Capital Scheme And Approved By Cabinet			£45,046	£0	£45,046
07/2340/FL/E9	Land off Thames Road, Goscote	Secondary Education facilities within 3 miles	£20,516	29/10/2015	20/10/2015	Sneyd Site Feasibility Study £16000 and Shepwell School £4516		Sneyd Site PRU / Post 16 Provision - Shepwell School Improvement / Capacity Works	£20,516	£20,516	£0
09/1695/FL	Bell Lane, Bloxwich, Walsall	Secondary Education	£222,810	16/08/2017		Funding Still To Be Allocated To A Capital Scheme And Approved By Cabinet			£222,810	£0	£222,810
06/0126/OL/W1	Heston and Granby, Stafford Road, Wednesbury (The Keep)	Secondary Sector, 50% 42nd dwelling, 50% Completion	£135,669	16/09/2016		Funding Still To Be Allocated To A Capital Scheme And Approved By Cabinet			£135,669	£0	£135,669
06/0344/FL/E3	2 Coppice Road, Walsall, WS9 9BL	Secondary	£28,583	none		Funding Still To Be Allocated To A Capital Scheme And Approved By Cabinet			£28,583	£0	£28,583
06/0344/FL/E3	2 Coppice Road, Walsall, WS9 9BL	Secondary	£439	none		Funding Still To Be Allocated To A Capital Scheme And Approved By Cabinet			£439	£0	£439
06/0641/FL/E9	The Stag, Field Road	Secondary Sector. Due on various triggers	£36,257	none		Funding Still To Be Allocated To A Capital Scheme And Approved By Cabinet			£3,625	£0	£3,625
07/1492/FL/E11	Site R/O 160-164 Broad Lane,Bloxwich	Primary and Secondary Sector, due on commencement	£42,005	27/02/2017		Funding Still To Be Allocated To A Capital Scheme And Approved By Cabinet			£21,681	£0	£21,681
07/1494/FL/W6	Bentley Health clinic, Churchill Rd, Walsall	Secondary Sector, due on commencement	£26,132	none - Company Went Bust So Sec 106 Time Expired Money Could Not Be Returned To Them	20/10/2015	Shepwell School £26132		Shepwell School Improvement / Capacity Works	£26,132	£26,132	£0
07/2323/FL/E12	Land at Goscote Lane and Well Lane	Secondary Education facilities within 3 miles	£7,655	29/10/2015	20/10/2015	Shepwell School £5019 - Pool Hayes £2636		Shepwell School Improvement / Capacity Works and Pool Hayes Improvement / Capacity Works	£7,655	£7,655	£0
08/0059/FL	Land at Cartbridge Lane South, Walsall	Secondary Education facilities within 3 miles	£157,471	27/02/2016		Funding Still To Be Allocated To A Capital Scheme And Approved By Cabinet			£157,471	£0	£157,471
06/2209/OL/E9	Shire Oak Reservoir, Chester Road, Walsall	Primary/Secondary Education	£108,350	none		Funding Still To Be Allocated To A Capital Scheme And Approved By Cabinet			£108,350	£0	£108,350
10/1593/FL	Watermead Grange, Walsall	Secondary Education	£97,576	29/11/2018		Funding Still To Be Allocated To A Capital Scheme And Approved By Cabinet			£97,576	£0	£97,576
			£1,505,033						£1,452,076	£630,826	£821,250

QV @ 31/03/2015 £879,887

Variance -£58,637