



# Walsall Council

28<sup>th</sup> November 2019

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

### **Section 106 Report**

#### **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.
- 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

11. **BACKGROUND PAPERS**

All published.

Steve Pretty, Head of Planning, Engineering and Transportation

1. This is an amalgamated report updating on progress with legal obligations for the period from start Q4 in 2017/18 to end Q2 2019/20. 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 policies 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) 2019, 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. Under the Community Infrastructure Regulations the Government introduced restrictions on the number of Section 106 contributions that could be pooled to fund an individual "*infrastructure project or type of infrastructure*" to no more than five contributions.
6. With effect from 1 September 2019 the following changes have been introduced:

(1) Removal of 'pooling' restrictions

With the removal of this requirement, local planning authorities will again be permitted to collect more than five contributions to fund the same infrastructure, by using s.106 planning agreements.

It is important to note that the tests in Regulation 122 will continue to apply, and so the s.106 agreement will still need to be (a) necessary to make the development acceptable in planning terms, (b) directly related to the development, and (c) fairly and reasonably related in scale and kind to the development.

(2) Limits on Monitoring Fees

These are now being given a statutory footing and so they will now be subject to a test of 'reasonableness' relevant to the scale and type of development.

Further, any fees must not "*exceed the authority's estimate of its costs of monitoring the development over the lifetime of the planning obligations which relate to that development*".

(3) Surcharge for failure to serve a Commencement Notice replaces denial of exemption

This change relates to the processing of notices for contributions secured under the community infrastructure regulations. As Walsall currently does not have a charging schedule in place under the CIL regulations, this change has a nil effect on the Council.

7. It can be noted that out of nearly £3.0m received in contributions, the majority of these contributions have now been expended. The majority of the remaining balance comprises of a series of contributions for development that has either recently been approved or the target dates for expenditure are yet to be reached.
8. The recent audit of agreements has though highlighted a small number of applications where a target date has now been reached. These agreements are being reviewed and further details will be provided in a future update.
9. Summary details of all expenditure is provided below.

<b>Service Area</b>	<b>s106 Contribution</b>	<b>Spent to Date</b>	<b>Committed / Allocated</b>	<b>Balance Remaining</b>
Affordable Housing	£1,152,913.68	£0.00	£254,801.06	£898,112.62
Children's Services	£361,151.00	£97,576.00	£263,575.00	£0.00
Clean & Green	£1,475,629.14	£787,636.71	£479,716.97	£208,275.46
<b>TOTAL</b>	<b>£2,989,693.82</b>	<b>£885,212.71</b>	<b>£998,093.03</b>	<b>£1,106,388.08</b>

10. The latest expenditure of received open space contributions is provided in the attached table.

Application No.	Site Address	Service Area	Description	Expiry Date	s106 Contribution	Spent to Date	Committed / Allocated	Balance Remaining
05/1566/OL/W3	The Junction, Willenhall	Affordable Housing	Within Walsall. Within the locality	No expiry date	£65,000	£0		£65,000
07/0151/FL/W3	Silver Street, Brownhills	Affordable Housing	Within Walsall. Within the locality	30/04/2019	£58,294	£0	£58,294	£0
10/1593/FL	Victoria Avenue, Bloxwich	Affordable Housing	Within Walsall. Within the locality	No expiry date	£246,250	£0		£246,250
13/0564/FL	Former St Margarets Hospital	Affordable Housing	Within Walsall. Within the locality	No expiry date	£196,508	£0	£196,508	£0
12/1486/FL	41 Leighswood Road	Affordable Housing	Within Walsall. Within the locality	30/01/2025	£146,075	£0		£146,075
15/1268	Rushall Mews	Affordable Housing	Within Walsall. Within the locality	No expiry date	£224,088	£0		£224,088
16/1669	Adj 16 and car park R/O 16-22 High Street Aldridge	Affordable Housing	Within Walsall. Within the locality	21/06/2022	£216,700			£216,700
05/2039/FL/E4	Binary House, Boatmans Lane, Walsall	Children's Services	Allocated towards the cost to relocate the Pupil Referral Service Rushall to Pinfold, Bloxwich.	None.	£45,046	£0	£45,046	£0
06/0344/FL/E3	2 Coppice Road, Walsall, WS9 9BL	Children's Services	Allocated towards the cost to relocate the Pupil Referral Service Rushall to Pinfold, Bloxwich.	None.	£29,021	£0	£29,021	£0
06/0641/FL/E9	The Stag, Field Road	Children's Services	Allocated towards the cost to relocate the Pupil Referral Service Rushall to Pinfold, Bloxwich.	None.	£36,257	£0	£36,257	£0
06/2209/OL/E9	Shire Oak Reservoir, Chester Road, Walsall	Children's Services	Allocated towards the cost of the school expansion planned for Oakwood Special School	None.	£108,350	£0	£108,350	£0
07/2731/FL/E11	Land to the rear of 201-217 Lichfield road Rushall	Children's Services	Allocated towards the cost to relocate the Pupil Referral Service Rushall to Pinfold, Bloxwich.	17/12/2025	£44,901	£0	£44,901	£0
10/1593/FL	Watermead Grange, Walsall	Children's Services	£32,525 given to Brownhills School to fund improvements identified within the school. £32,525 given to Brownhills School to be used as a contribution towards planned capital maintenance works for the final phase of a rewire at the school. £32,526 given to Elmwood School to fund improvements identified within the school.	28/12/2018	£97,576	£97,576	£0	£0
02/1494/FL/E2	Field Road(Industrial Est) Bloxwich	Clean & Green	See attached last Open Space Update Table (2013) provided to me.	2014/15	£5,516	£827		£4,689
02/1983/FL/W3	Providence Close/Leamore Lane	Clean & Green	To be used towards improving public open space facilities in the wider area.	2016/17	£20,874	£19,631		£1,243
03/1308/FL/E4	Stackhouse Drive	Clean & Green	Towards provision of open space.	2013/14	£2,758	£699		£2,059
03/1853/FL/E6	Hawbush Rd former Welcome Stranger	Clean & Green	Towards provision of off site recreational facilities.	2013/14	£3,549	£2,550		£999
04/0845/OL/W3	Former Derby Arms, Raleigh Street	Clean & Green	Towards improvement of open space facilities in the wider area.	2012/13	£2,000	£1,160		£840
06/2209/OL/E9	Shire Oak Reservoir	Clean & Green	If so it should be used towards provision of urban open space.	2018/19	£61,070	£39,761	£21,309	£0
07/2731/FL/E11	Lichfield Road Rushall	Clean & Green	open space provision and mtce in the wider area of the site	2020/21	£56,559	£30,730	£25,829	£0
09/0215/FL	Leve Lane Willenhall	Clean & Green	Provision of Open space within the wider area of the site	27/06/2024	£16,383	£9,321	£7,061	£0
10/1593/FL	Watermead Grange	Clean & Green	Towards open space.	29/11/2018	£103,119	£100,801		£2,318
10/1706/FL	Redhouse School	Clean & Green	Towards compensatory sports pitch provision	13/11/2020	£78,800	£11,854		£66,946
11/0516/FL	Victoria Avenue	Clean & Green	If so it should be used towards open space within wider area of the site.	16/04/2018	£82,316	£77,444		£4,873
11/1364/FL	Norfolk Place	Clean & Green	Towards open space provision within vicinity of wider area of site.	03/09/2017	£185,753	£176,661		£9,092
12/0736/FL	Former St Johns School	Clean & Green	Towards providing, servicing and maintaining public open space within vicinity of development.	10/06/2021	£29,745	£7,068		£22,677
13/1056/FL	Former Jebbron works	Clean & Green	Towards urban open space, in particular Kings Hill Park	2019/20	£49,250	£47,513	£1,737	£0
13/1529/FL	Park Tavern	Clean & Green	open space contribution	21/04/2022	£29,496	£26,097		£3,399
14/1345/FL	Former Coalpool Clinic	Clean & Green	open space provision and mtce in the wider area of the site	2022/23	£8,097	£4,515	£3,582	£0
15/0238/FL	Clothier Street School (Harry Perks Street)	Clean & Green	open space willenhall area	2020/21	£72,356	£45,535	£26,821	£0
15/1268	Leighswood Road	Clean & Green	Leighswood and the croft open spaces	31/01/2025	£58,138	£18,619	£39,519	£0
15/1606	Bulls Head Bloxwich	Clean & Green	KGV maintenance	22/03/2023	£9,446	£1,417	£8,029	£0
15/1683	Land at Wilkes Avenue Bentley	Clean & Green	Provision of Open space improvements and works within the Poplar Avenue, Old Hall pool and Wilkes avenue open spaces	2021/22	£53,243	£19,986	£33,257	£0
15/1744	Park Lane/Wood Street	Clean & Green	Provision of Open space improvements and works within the Park Lane/Cook Street open space	2021/22	£60,752	£21,113	£39,639	£0
16/1233	Daw End School Rushall	Clean & Green	open space provision and mtce in the wider area of the site Urban Open Space contribution towards the maintenance or enhancement of habitats and provision of public access, public information boards and measures to combat anti-social behaviour at the urban open spaces at Mill Lane Nature Reserve and the area of land to the east of Mill Lane and north of Borneo Street Walsall and for no other purpose whatsoever.	2022/23	£106,262	£51,121		£55,141
16/1241	Teddesley Street	Clean & Green	Provision of Open space improvements and works within the Poplar Avenue, Old Hall pool and Wilkes avenue open spaces	25/09/2022	£55,239	£8,286	£46,953	£0
16/1669	Rushall Mews - Open space	Clean & Green	improvements at Cartbridge Lane allotments, Radleys Play area and Park Liime Pits	2023/24	£72,841	£26,782	£46,059	£0
16/1669	Rushall Mews - tree planting	Clean & Green	Tree planting at the skate park	2023/24	£11,820	£2,108	£9,712	£0
17/0443	100 and 101 Union Street WV13 1PA	Clean & Green	for use at Fibbersley LNR and Willenhall Park	2024/25	£7,509	£1,126	£6,382	£0
18/0032	Land at Heathfield Lane West, Darlaston	Clean & Green	Various works at Darlaston recreation centre, George Rose Park, Kings Hill Park, Victoria Park and Walsall Canal	31/01/2024	£192,739	£28,911	£163,828	£0
BC64477P	Windrush Close (was Brewers Drive)	Clean & Green	Maintenance of open space.	2017/18	£40,000	£6,000		£34,000
					<b>£2,989,694</b>	<b>£885,213</b>	<b>£998,093</b>	<b>£1,106,388</b>