



# Walsall Council

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*Planning Committee*

10<sup>th</sup> April 2014

## REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL

### **Section 106 Report – Financial Year 2013/14**

#### **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 2013 to 31<sup>st</sup> March 2014.
- 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**

David Elsworthy - Extension: 4722  
Michael Brereton – Extension 8021

11. **BACKGROUND PAPERS**

All published.

David Elsworthy, Head of Planning and Building Control

1. This is the final in a series of quarterly reports covering financial year 2013/14. 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 Community Infrastructure Levy Regulations 2010, policy DEL1 of the Black Country Core Strategy (BCCS) and policy GP3 of the Unitary Development Plan (UDP). It must also now comply with the National Planning Policy Framework (NPPF), which was published on 27 March 2012 and has replaced Government Circular 05/2005 on Planning Obligations and re-enforces the requirements of the Regulation 122 tests of the CIL Regulations mentioned above. The NPPF also 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.
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 24<sup>th</sup> 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 16<sup>th</sup> September and 28<sup>th</sup> 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 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 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 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 area and the funding is transferred to the service area concerned and expenditure is monitored by that service’s accountant.
  11. A total of 5 Planning Obligations were completed in financial year 2013/14 totalling £336,314.57 to be sought. Of this amount £199,500.00 has been received to date for off-site affordable housing (including 1.5% Policy deduction). The remainder (not yet due) totals £136,814.57 and is broken down as £75,000.00 for highways, £49,348 for open space and £12,466.57 for education. Full details are provided in Appendix A.

12. A total of 8 affordable housing units were secured during this period. Full details are available in Appendix B.
13. One Supplemental Deed was completed in this period. The deed of variation removed the requirement for on-site affordable housing and instead requires a commuted sum of £250,000.00 towards off-site affordable housing. Full details are provided in Appendix C.
14. In comparison, 6 Planning Obligations were completed in financial year 2012/13 totalling £96,423.00 in contributions sought. A total of £30,769.00 has been received to date, broken down as £15,019.00 for open space (including 1.5% Policy deduction), £15,000.00 for highways (including 1.5% Policy deduction) and £750 towards legal costs. A total of 43 affordable dwellings were also secured during this period.
15. Details of contributions that are due to expire within the next 12 months are set out in Appendix D.
16. No update has been received for the expenditure of received Section 106 Education contributions for the financial year. An update will be provided in the next report to Planning Committee for the first quarter of 2014/15.
17. The expenditure of funds on the Wayfinding project (now completed) is set out in Appendix E.

In addition, other expenditure during quarter 4 of the financial year:

- £2000 - 11/0560/FL - Old Square Shopping Centre / Former Tesco Store/ Sister Dora Buildings, Walsall.
- £5000 - 07/0639/FL/W2 - Morrison's, Willenhall.

18. No update has been received for the expenditure of received Section 106 Open Space contributions for the financial year. An update will be provided in the next report to Planning Committee for the first quarter of 2014/15.



## Appendix A - Overall S106 Contributions Sought and Received for period 01/04/2013 - 31/03/2014

<u>Application No</u>	<u>Proposal</u>	<u>Decision Date</u>	<u>Site</u>	<u>LNP</u>	<u>Service Area</u>	<u>Contribution Req'd</u>	<u>S106 Details</u>	<u>Contribution Recieved</u>	<u>Indexation Rx</u>	<u>Date Cont Recd</u>	<u>Cont Expiry Date</u>
11/0747/FL	Mixed use development comprising 4 retail units, (A1, A2, A3 and D1 - medical and health) 10 x 2 bed apartments and 8 x 1 bed supported living units.	04/04/2013	Formerly the Butler's Arms PH, c/o Bloxwich Road/Harden Road, Walsall, WS3 2BA	Blakenall and Bloxwich	<b>Secondary School Education Contribution</b>	£12,466.57	Towards secondary education within vicinity of wider area of site. Due on commencement. Index linked.	£0.00	£0.00		
11/0747/FL	Mixed use development comprising 4 retail units, (A1, A2, A3 and D1 - medical and health) 10 x 2 bed apartments and 8 x 1 bed supported living units.	04/04/2013	Formerly the Butler's Arms PH, c/o Bloxwich Road/Harden Road, Walsall, WS3 2BA	Blakenall and Bloxwich	<b>Urban Open Space Contribution</b>	£19,180.00	Towards open space within vicinity of wider area of site. Due on commencement. Index linked.	£0.00	£0.00		
11/0747/FL	Mixed use development comprising 4 retail units, (A1, A2, A3 and D1 - medical and health) 10 x 2 bed apartments and 8 x 1 bed supported living units.	04/04/2013	Formerly the Butler's Arms PH, c/o Bloxwich Road/Harden Road, Walsall, WS3 2BA	Blakenall and Bloxwich	<b>Expiry Date for</b>		Any unused contribution to be repaid within one month of five years from date of payment.	£0.00	£0.00		
12/1486/FL	Minor material amendment to permission 09/0753/RM to vary condition 2 allowing substitution of house types for plots 378-415 (phase 3) of residential development of 141 dwellings.	24/06/2013	FORMER ST. MARGARETS HOSPITAL, QUESLETT ROAD, WALSALL, B43 7EZ	Pheasey and Paddock	<b>Affordable Housing Contribution</b>	£196,507.50	Due on completion of agreement for off-site affordable units in leiu of affordable units at the part of the site set out in plan in agreement.	£196,507.50	£0.00	25/06/2013	
12/1486/FL	Minor material amendment to permission 09/0753/RM to vary condition 2	24/06/2013	FORMER ST. MARGARETS HOSPITAL, QUESLETT ROAD,	Pheasey and Paddock	<b>Policy 1.5% Monitoring Charge</b>	£2,992.50	Deducted from affordable housing off-site contribution.	£2,992.50	£0.00	25/06/2013	

allowing substitution of house types for plots 378-415 (phase 3) of residential development of 141 dwellings.

WALSALL, B43 7EZ

<b>13/0440/FL</b>	Hybrid Application - Full Planning Application for Multi-Screen Cinema (Use Class D2) at first and second floor with Retail, Restaurants and Cafes, Drinking establishments (Use Classes A1/A3/A4) at ground floor level and two separate units for Restaurants and Cafes and Drinking Establishments (Use Class A3/A4), car parking, external seating area, landscape works, additional temporary surface car parking, canal footbridge, associated works and access arrangements. Outline Application (all matters reserved) for Leisure, Retail, Restaurants and Cafes and Drinking Establishments (Use Classes A1, A3, A4 and D2)	21/06/2013	WATERFRONT - LAND SOUTH OF WOLVERHAMPTON STREET, WALSALL, WS2 8LR	St Matthews and Birchills	<b>Highway Contribution</b>	£75,000.00	Towards feasibility assessment and traffic and pedestrian monitoring. Due prior to commencement.	£0.00	£0.00
<b>11/1033/TE</b>	Time Extension for implementing permission 06/0169/OL/E4	23/10/2013	520, CHESTER ROAD, ALDRIDGE, WALSALL, WEST MIDLANDS	Aldridge South and Streetly	<b>Other or Mixed (Please State in Detail)</b>	£0.00	1.1 Not to commence the Developments unless and until the company has confirmed to the Council in writing that it agrees to the commencement of the developments.	£0.00	£0.00
<b>11/1033/TE</b>	Time Extension for implementing permission	23/10/2013	520, CHESTER ROAD, ALDRIDGE,	Aldridge South and	<b>Other or Mixed (Please</b>	£0.00	1.2 Not to commence	£0.00	£0.00

construction of any of the dwellings until either access road (A) or in the alternative access road (B) has been constructed and brought into use by the company as the permanent means of access to and egress from the quarry.

<b>12/0736/FL</b>	Demolition of the Former St. John's school and No.11 Lichfield Road, Walsall Wood and construction of 12 houses with associated car parking and site works.	10/03/2014	FORMER ST JOHN'S SCHOOL & 11 LICHFIELD ROAD, WALSALL WOOD, WALSALL	Aldridge South and Streetly	<b>Urban Open Space Contribution</b>	£30,168.00	Contribution due prior to the carrying out of any implementation works	£0.00	£0.00
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**Total Completed Planning Obligations**

**5**

**Total**

**£336,314.57**

**Total Received**

**£199,500.00**

**Total Not Yet Due**

**£136,814.57**





## Appendix B - Breakdown of Affordable Housing Secured by Planning Obligation 01/04/2013 - 31/03/2014

**KEY**  
 BB = Bedroom Bedsit  
 BF = Bedroom Flat/Apartment  
 BH = Bedroom House

<u>App No</u>	<u>Location</u>	<u>LNP</u>	<u>RSL</u>	<u>Total Scheme Units</u>	<u>Total S/O Units</u>	<u>Total Aff Rented Units</u>	<u>Total Reduced Value Units</u>	<u>No of Units</u>	<u>Tenure</u>	<u>Type</u>	<u>Status</u>	<u>Plot No's</u>	<u>No of Units</u>	<u>Tenure</u>	<u>Type</u>	<u>Status</u>	<u>Plot No's</u>
11/0747/FL	Formerly the Butler's Arms PH, c/o Bloxwich Road/Harden Road, Walsall, WS3 2BA	Blakenall and Bloxwich	Not Selected	18		8		8	Affordable Rented	1BF	Planned		0				
								0					0				
								0					0				
								0					0				
								0					0				
<b>Grand Total Completed Obligations</b>				1	<b>Grand Total Scheme Units</b>	18	<b>Grand Total Shared Ownership Units</b>	=	%	<b>Grand Total Aff Rent Units</b>	8	=	44.44	%	<b>Grand Total Reduced Value Units</b>	=	%



## Appendix C - Supplemental Deeds for period 01/04/2013 - 31/03/2014

<u>Application No</u>	<u>Proposal</u>	<u>Date of Deed</u>	<u>Site Address</u>	<u>LNP</u>	<u>Details</u>
11/0516/FL	Erection of 42 houses and 3 flats (total 45 dwellings) together with associated parking, garages, landscaping and access.	24/07/2013	45 Victoria Avenue and Land to Rear of 39-51 Victoria Avenue; 39-47 and 66 Drake Road; and 125-139 Field Road, Bloxwich, WS3 2XU	Blakenall and Bloxwich	Deed of Variation dated 24/07/2013 removes on-site affordable housing and instead requires commuted sum of £250,000 towards off-site affordable housing.

**Total Completed Supplemental Deeds**

1



## Appendix D - S106 Contributions to expire within the next 12 months as of 31/03/2014

<u>Application No</u>	<u>Proposal</u>	<u>Decision Date</u>	<u>Site</u>	<u>LNP</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>
<b>08/0455/FL</b>	Erection of 4 no. 2 bed bungalows and 6 no. 2 bed apartments, parking and access facilities, landscaping.	01/05/2009	Land at Thorneycroft Place/Ashtree Grove, Moxley, W14 8LU	Darlaston	<b>Urban Open Space Contribution</b>	£13,652.10	Towards provision of open space within wider area of the site (RPI linked). Due on commencement. Received in the Banking Hall.	£13,652.10	30/04/2009	£0.00	<b>30/04/2014</b>
<b>07/0639/FL/W2</b>	Outline: Demolition of existing buildings and provision of retail (use class A1), residential (use class C3), premises for retail, service or office use (use classes A1, A2, A3, A4, A5 or B1), link road, car parking and other associated works.	12/03/2008	MORRISONS, LAND BETWEEN,WOOD STREET, UPPER LICHFIELD STREET &,LOWER LICHFIELD STREET EXTENDING TO,WALSALL STREET,WILLENHALL,WEST MIDLANDS	Willenhall	<b>Other or Mixed (Please State in Detail Box)</b>	£123,125.00	Willenhall District Centre contribution - To be used towards on or off site infrastructure, facilities, services, or mitigating measures made necessary by the development. Due within 10 days of commencement of Supermarket.	£123,125.00	25/08/2009	£0.00	<b>07/07/2014</b>

09/1101/FL

Erection of a new teaching building for the performing arts and learning resource centre, together with demolition of redundant buildings, car parking and landscaping.

03/02/2010

WALSALL  
CAMPUS, GORWAY  
ROAD, WALSALL,  
WS1 3BD

St Matthews  
and Birchills  
Leamore

**Other or Mixed  
(Please State  
in Detail Box)**

£1,970.00

To cover costs of promoting Traffic Regulation Orders to restrict parking on the streets of the Broadway Park Estate. Due on completion of agreement.

£1,970.00 03/02/2010

£0.00 **03/02/2015**

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

Pelsall and  
Rushall-  
Shelfield

**Secondary  
School  
Education  
Contribution**

£78,068.17

Towards provision of secondary education facilities within a 3 mile radius of the site. 50% due prior to commencement.

£78,068.17 20/09/2011

£0.00 **20/09/2014**

## Appendix E - Walsall Wayfinding Project - Payments & Contributions

Date of Payment (On Oracle)	Quarter for S106 Monitoring	Amount Paid	Amount Used from each contribution						TOTAL	Comments	
			Regenerating Walsall Capital Programme	Tesco Walsall S106 Contribution	Waterfront S106 Contribution	Heath Rd, Darlaston S106 agreement	Pelsall Rd, Brownhills S106 agreement	Manor Hospital Developer Agreement			Threadneedle Developer Agreement
			Contribution Received? Yes	Yes	Yes	Yes	Yes	Yes	No		
21/06/11	Q1 2011/12	15,000.00		15,000.00						<b>15,000.00</b>	Urbed
14/07/11	Q2 2011/12	15,000.00						15,000.00		<b>15,000.00</b>	Urbed
20/07/11	Q2 2011/12	325.19					325.19			<b>325.19</b>	Landscape team (Masterplan)
29/07/11	Q2 2011/12	15,000.00		4,243.27		1,590.11	416.62	8,750.00		<b>15,000.00</b>	Urbed
16/09/11	Q2 2011/12	31,550.00	11,550.00	20,000.00						<b>31,550.00</b>	Urbed
(no payments)	Q3 2011/12									<b>0.00</b>	
March 2012	Q4 2011/12			4,000.00						<b>4,000.00</b>	Glen Buglass (Creative Development) fees
March 2012	Q4 2011/12			335.00						<b>335.00</b>	Planning Application Fee
(no payments)	Q1 2012/13									<b>0.00</b>	
26/07/12	Q2 2012/13			800.00						<b>800.00</b>	Legal fees - Park Place Mural
(no payments)	Q3 2012/13									<b>0.00</b>	
(no payments)	Q4 2012/13									<b>0.00</b>	
(no payments)	Q1 2013/14									<b>0.00</b>	
	Q2 2013/14			380.00						<b>380.00</b>	Canal & Rivers Trust Legal Fees
	Q2 2013/14			4,000.00						<b>4,000.00</b>	Urbed
(no payments)	Q3 2013/14									<b>0.00</b>	
	Q4 2013/14			226.23	2,779.77					<b>3,006.00</b>	Urbed
<b>Total Spent:</b>		<b>76,875.19</b>	<b>11,550.00</b>	<b>48,984.50</b>	<b>2,779.77</b>	<b>1,590.11</b>	<b>741.81</b>	<b>23,750.00</b>	<b>0.00</b>	<b>89,396.19</b>	
Approved CFR Contribution		120,500.00	14,841.44	48,984.50	25,842.14	1,590.11	741.81	23,750.00	4,750.00	<b>120,500.00</b>	
<b>Revised Contribution</b>		<b>120,500.00</b>	<b>19,591.44</b>	<b>48,984.50</b>	<b>25,842.14</b>	<b>1,590.11</b>	<b>741.81</b>	<b>23,750.00</b>	<b>0.00</b>	<b>120,500.00</b>	Threadneedle funding no longer available
<b>Balance:</b>		<b>43,624.81</b>	<b>8,041.44</b>	<b>0.00</b>	<b>23,062.37</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>31,103.81</b>	