
SECTION 106 AGREEMENTS : POSITION STATEMENT APRIL 2017

Purpose of the Report

1. The purpose of this report is to update Planning Applications Committee on the position with respect to Section 106 Agreements for its information and monitoring on a six monthly basis.

Summary

2. Members asked for a report with respect to Section 106 Agreements for its information and monitoring on a six monthly basis
3. Members will note the information in the attached table that sets out the current position in relation to the information requested.
4. The table shows a total of 36 Section 106 Planning Agreements. The total value of the live permissions or agreements is currently £11.9m (up from £8.7m) The total value of agreements associated with development that is not proceeding is currently £0.4m
5. For the 36 live permissions and agreements, the Council has received £3.27m of which the Council is obligated to carry out necessary works or services in relation to the relevant development. In that respect £1.4m has been spent on obligations.
6. Since November 2016 the council has received a total of £542k in S106 agreements.

Recommendations

7. It is recommended that Members receive the report and, in particular note :-
 - (a) that updates of the position with respect to Section 106 Agreements will be reported to the Planning Applications Committee for its information and monitoring on a six monthly basis.
 - (b) That the Director of Economic Growth is the designated senior responsible officer for S106 matters.
 - (c) That the Section 106 position statement will be made available on the Council's web site.

Ian Williams, Director of Economic Growth

Background Papers

There were no background papers used in the preparation of this report.

S17 Crime and Disorder	This report has no implications for Crime and Disorder
Health and Well Being	There are no direct implications from this report.
Carbon Impact	There are no issues which this report needs to address.
Diversity	There are no issues relating to diversity which this report needs to address
Wards Affected	Relevant to all and the particular wards in which developments referred to are undertaken.
Groups Affected	The impact of the report on any individual Group is considered to be minimal.
Budget and Policy Framework	This report does not represent a change to the budget and policy framework.
Key Decision	This is not a key decision.
Urgent Decision	This is not an urgent decision
One Darlington: Perfectly Placed	Section 106 agreements are an essential tool for ensuring the appropriateness of development within the context of the ODPP.
Efficiency	No direct impacts.

MAIN REPORT

Background

Section 106 Agreements

8. Planning obligations, also known as Section 106 agreements (based on that section of The 1990 Town & Country Planning Act) are private agreements made between local authorities and developers and can be attached to a planning permission to make acceptable development which would otherwise be unacceptable in planning terms. The land itself, rather than the person or organisation that develops the land, is bound by a Section 106 Agreement, something any future owners will need to take into account.
9. The Government's policy on the use of planning obligations is set out on the [Planning Practice Guidance website](#). Local planning authorities must take this guidance into account in their decisions on planning applications and must have good reasons for departing from it.

10. Planning Obligations are used for three purposes:-
- (a) **Prescribe** the nature of development (for example, requiring a given portion of housing is affordable).
 - (b) **Compensate** for loss or damage created by a development (for example, loss of open space).
 - (c) **Mitigate** a development's impact (for example, through increased public transport provision).
11. S106 Agreements set out obligations between the Developer and the Local Authority which are binding on both sides if they are bilateral agreements. Developers can also make Unilateral Agreements. All of the agreements listed on the attached table are bilateral agreements. These will normally be in the form of positive and negative obligations. A positive obligation is a commitment to do something. Examples of this might be for the developer to provide a play area, or to provide land for a school and these would normally be related to triggers in the permission for such commitments to be completed. These are reflected in the table under non-financial commitments (to the Council). Equally the agreement might commit the Local Planning Authority to do something usually in response to the developer providing the necessary funding. This is more likely to relate to off-site works such as improvements to local play, recreational facilities and education.
12. Negative obligations are a commitment not to do something. For example a developer may agree to not start building the 50th house until the local school has been extended. These negative obligations are not represented on the attached table unless they are a specific trigger to a positive obligation to make a payment to the Council.
13. Planning obligations must be directly relevant to the proposed development. They cannot be used to correct existing deficiencies in infrastructure or services and they cannot generally be used for revenue projects but there are some exceptions.

Members Request

14. Members asked for a report that updates of the position with respect to Section 106 Agreements for its information and monitoring on a six monthly basis
15. The table shows a total of 36 Section 106 Planning Agreements. The total value of the live permissions or agreements is currently £11,919,692 The total value of agreements associated with development that is not proceeding is currently £404,140
16. For the 36 live permissions and agreements the Council has received £3,272,782 in payments and of which the Council is obligated to carry out necessary works or services in relation to the relevant development. In that respect £1,406,130 has been spent on obligations
17. Since November 2016 the council has received a total of £542,125 in S106 agreements.

Reflections on the position statement

18. Monitoring and the collection of the information has been improved with more liaison between the Planning Service and Finance departments. The upgrade to the Uniform Planning Management System was completed in February and the Exacom S106 monitoring software will be introduced in Q2 2017.
19. In order to create a single point of responsibility for S106 obligations the Director of Economic Growth has been designated as the Senior Responsible Officer. The Director will through his teams manage the monitoring and commissioning of projects to other departments as appropriate. In that context it suggested that the Director presents the S106 Position Statement to the Capital Asset Group as a “shadow capital budget” in order to align spending either with the Council’s other priorities or with matched funding opportunities.
20. To ensure that the Section 106 position statement has more transparency than it currently does a 6 monthly report will be presented to the Planning Applications Committee for its information and monitoring. It is also important that the development industry and the public have confidence that appropriate mitigation or compensation is being delivered. The position statement will also be available for public inspection on the Council’s web site.

10/00836/FUL	Marshall CDP	178,455.64
13/00347/FUL	Taylor Wimpey	125,000.00
16/00108/FUL	Wm Morrisons	60,000.00
10/00412/FUL	Bellway Homes	99,800.00
14/01173/FUL	Lingfield Point	78,870.00

Grand Total 542,125.64

Ref. Site Address	Applicant	Ward	Obligations	Sum NF=non financial	Amount Received	Spent	Balance
1 09/00530/FUL Central Park (Teesside Uni), Houghton Road	Teesside University	Stephenson Ward	Infrastructure (changing facilities RUFC)	259,401			
		Stephenson Ward	Maintenance	75,000			
		Stephenson Ward	Replacement playing pitches	420,158	-756,059.00	667,424.81	-88634.19
2 01/00560/FUL and 10/00715/FUL Mowden Park RUFC, 22 Yiewsley Drive	Yuill Homes, Bellway Homes	Mowden	Recreation Land	151,463	-151,463.40	0.00	-151463.40
		Mowden	Equipped Play Area	80,703	-80,703.40	0.00	-80703.40
		Mowden	Transport - Bus Services	92,497	-92,496.73	0.00	-92496.73
		Mowden	Bus shelter & Dropped Kerbs	31,500	-31,812.00	0.00	-31812.00
3 06/00959/FUL Land At Snipe House Farm	Miller Homes Limited	Park East Ward	Affordable Housing	NF			
		Park East Ward	Open Space & Football Pitch	NF			
		Park East Ward	Open Space & Football Pitch	38,630	-38,630.00	0.00	-38630.00
		Park East Ward	Play & Recreational Equipment	89,200	-89,200.00	89,200.00	0.00
		Park East Ward	Public Transport (Bus Stops)	40,000	-40,000.00	32,525.00	-7475.00
		Park East Ward	Community Facilities Fund	100,000	-100,000.00	41,864.67	-58135.33
4 13/00989/FUL Proposed Site For Railway HA By Yuill Homes Alverton Drive	Andrea Abbott	Brinkburn and Faverdale W	Open Space	18,876	-18,876.00	0.00	-18876.00
5 09/00439/FUL Former North Road Service Station	A Gregory Building Contractors	Harrowgate Hill Ward	Public Open Space	12,200	-6,100.00	0.00	-6100.00
6 09/00706/FUL & 13/01038/FUL Site Of Former Darlington Football Club Ground South Terrace	Persimmon Homes (Teesside) Limited	Park West Ward	Highways	137,138	-137,137.50	0.00	-137137.50
		Park West Ward	Education	67,798		0.00	0.00
		Park West Ward	Sports Facilities	45,199		0.00	0.00
		Park West Ward	Affordable Housing	NF			
		Park West Ward	Childrens Play	67,798		0.00	0.00
7 14/01251/FUL Darlington Rugby Football Club Grange Road	Darlington RUFC With Darlington 1883 FC	Park West Ward	Ecology	9,800		0.00	0.00
		Park West Ward	Highways (access to the club)	12,000	-12,000.00	2303.04	-9696.96
8 14/00503/FUL Land At OSGR E429114-N515709 Albert Road	Opus Land North (Darlington)Ltd	North Road Ward	Ecology	22,000	-22,000.00	0.00	-22000.00

9	14/01173/FUL Meadow (Unit 11b) Lingfield Point	Lingfield Point No.1 Ltd	Red Hall and Lingfield Ward	Sustainable Transport	23,550	0.00	0.00
			Red Hall and Lingfield Ward	Road Network	55,320	0.00	0.00
10	14/00001/FUL Field At OSGR E427950 N517041 Faverdale North	Opus Lane (North) Limited	Brinkburn and Faverdale Ward	Ecology	5,000	-5,000.00	-5000.00
11	14/01012/FUL & 05/00183/FULE Royal Oak Farm HEIGHINGTON	EDF Energy	Heighington and Coniscliffe Ward	Ecology			
12	12/00751/FUL & 11/00160/FUL Moor House Wind Farm Bishopton Lane GREAT	Mr Robert Stockford	Sadberge and Middleton St George Ward	Tree Planting Fund	10,000	-10,000.00	618.00 -9382.00
13	13/00347/FUL 08/00279/FUL 08/00824/FUL Site Of Former Hopetown House Brinkburn Road	Taylor Wimpey	Brinkburn and Faverdale Ward	Affordable Housing	46,875	-46,875.00	0.00 -46875.00
			Brinkburn and Faverdale Ward	Equipped Play Area	15,625	-15,625.00	0.00 -15625.00
			Brinkburn and Faverdale Ward	Sustainable Transport	15,625	-15,625.00	0.00 -15625.00
			Brinkburn and Faverdale Ward	Education	46,875	-46,875.00	0.00 -46875.00
14	10/00439/FUL Skerningham Manor Low Skerningham Lane BARMPTON	Mr & Mrs Martin Grey	Sadberge and Middleton St George Ward	Restrictive covenant only			
15	11/00461/FUL Glaisdale Court	Persimmon Homes Teesside Limited	College Ward	Open Space	14,375	-14,735.00	0.00 -14735.00
16	10/00836/FUL Site Of Former Torrington Works Yarm Road	Mr James Marshall	Red Hall and Lingfield Ward	Traffic counters	10,000	-10,000.00	0.00 -10000.00
			Red Hall and Lingfield Ward	Bus subsidy	15,000	-15,000.00	0.00 -15000.00
			Red Hall and Lingfield Ward	Road Network	153,456	-153,456.00	0.00 -153456.00
			Red Hall and Lingfield Ward	Indexation for late payment	16,562		0.00 0.00
17	10/00412/FUL & 08/00397/FUL Site Of Former Alderman Leach Primary School Leach	Bellway Homes Bussey Armstrong Projects	Cockerton Ward	Open Space	30,000	-30,000.00	0.00 -30000.00
			Cockerton Ward	Equipped Play Area	51,200	-49,800.00	0.00 -49800.00
			Cockerton Ward	Cycleway and Footpath	20,000	-20,000.00	0.00 -20000.00
			Cockerton Ward	Ecology	70,000	-70,000.00	0.00 -70000.00
			Cockerton Ward	Leach Grove Landscaping	28,200	-28,200.00	-28200.00
18	08/00638/OUT Lingfield Point (Millfields)	Taylor Wimpey	Red Hall and Lingfield Ward	Highways	1,184,400	-271,888.61	0.00 -271888.61
			Red Hall and Lingfield Ward	Pedestrian Crossing	55,000	-55,000.00	0.00 -55000.00
			Red Hall and Lingfield Ward	Sustainability	754,138	-109,113.00	0.00 -109113.00
			Red Hall and Lingfield Ward	Affordable Housing			
			Red Hall and Lingfield Ward	Education	500,000		0.00
			Red Hall and Lingfield Ward	Open Space Maintenance			
			Red Hall and Lingfield Ward	20 MPH Zone	2,000		0.00
			Red Hall and Lingfield Ward	Equipped Play Area	0		0.00
19	08/00703/FUL Proposed Business Park Durham Tees Valley Airport	Sven Investments	Sadberge and Middleton St George Ward	Highways (mini bus shuttle service)	20,000		0.00

20	06/00812/FUL Land Adjoining Faverdale West	Argon Faverdale Ltd	Brinkburn and Faverdale Ward	Highways	1,000				0.00
			Brinkburn and Faverdale Ward	Ecology	80,000				0.00
			Brinkburn and Faverdale Ward	Highway Safety TRO	1,500				0.00
21	04/01427/FULE Durham Tees Valley Airport MIDDLETON ST GEORGE	Durham Tees Valley Airport Limited	Sadberge and Middleton St George Ward	Highways	20,000				0.00
22	06/00536/FUL Rockcliffe Hall HURWORTH PLACE	Middlesbrough Football Club	Hurworth Ward	Protection of LB & phasing			NF		
23	06/00538/FUL Rockcliffe Park HURWORTH PLACE	Middlesbrough Football Club	Hurworth Ward	Protection of LB & phasing			NF		
24	06/00535/FULE Proposed Golf Course And Clubhouse Rockcliffe Park HURWORTH PLACE	Middlesbrough Football Club	Hurworth Ward	Public Transport (Bus Stops)	3,544				0.00
25	06/00634/FUL Thecla Buildings Allan Street	Yorvik Homes	Stephenson Ward	Affordable Housing			NF		
26	07/00041/OUT Dean & Chapter Land Adjoining Morton Park	PPG Land Limited And Durham Cathedral	Sadberge and Middleton St George Ward	Highways	639,100				0.00
				Sustainable Transport	670,446				0.00
27	13/00110/FUL & 08/01003/OUTE Humbleton Farm West Auckland Road BURTREE	Darlington Farmers Auction Mart	Sadberge and Middleton St George Ward	Public Transport (Bus Stops)	20,000				0.00
28	13/00940/OUT Sadberge Road, MIDDLETON ST GEORGE	Gladman Developments Limited	Sadberge and Middleton St George Ward	Education	611,000				0.00
			Sadberge and Middleton	Sports Piches	39,209				0.00
			Sadberge and Middleton	Highways			by formula		0.00
			Sadberge and Middleton	Cycleway and footpath	20,000				0.00
			Sadberge and Middleton	Bus Pass			NF		
			Sadberge and Middleton	Open Space			NF		
			Sadberge and Middleton	Affordable Housing	2,000,000				0.00
29	05/00708/FUL Wimpey Housing Development Geneva Lane	George Wimpey North East Limited	Bank Top and Lascelles Ward	Recreation	670,111	-670,111.00	572,194.46	-97916.54	
30	13/01001/FUL Croft House 2 Tees View HURWORTH PLACE	Broadacres Housing Associatiion	Hurworth Ward	Education	18,330				0.00
			Hurworth Ward	Open Spaces	5,460				0.00
			Hurworth Ward	Sustainable Transport	6,000				0.00
31	15/00513/FUL Woodburn Nursery	Esh Developments	Hummersknott Ward	Childrens play	24,057.00				0.00
		Esh Developments	Hummersknott Ward	Education	87,000.00				0.00
		Esh Developments	Hummersknott Ward	Transport	16,000.00				0.00
		Esh Developments	Hummersknott Ward	Tree contribution	7,500.00				0.00
		Esh Developments	Hummersknott Ward	Sport & Recreation	10,974.00				0.00

