
SECTION 106 AGREEMENTS : POSITION STATEMENT DECEMBER 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 44 Section 106 Planning Agreements. The total value of the live permissions or agreements is currently £15.3m (up from £11.9m) The total value of agreements associated with development that is not proceeding is currently £0.4m
5. For the 44 live permissions and agreements, the Council has received £4.9m (up from £3.27m) of which the Council is obligated to carry out necessary works or services in relation to the relevant development.
In that respect £1.68m has been spent on obligations.
6. Since November 2016 the council has received a total of £2.076m (up from £542k) in S106 agreements.
7. Six S106 project elements have now closed

Recommendations

8. 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

9. 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.

10. 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.
11. 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).
12. 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.
13. 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.
14. 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

15. 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
16. The table shows a total of 44 Section 106 Planning Agreements. The total value of the live permissions or agreements is currently £15,378,662
17. For the 44 live permissions and agreements the Council has received £4,905,470 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 £1,680,952 has been spent on obligations

18. Since November 2016 the council has received a total of £2,076,381 in S106 agreements.

Reflections on the position statement

19. Monitoring and the collection of the information has been improved with more liaison between the Planning Service and Finance departments. The introduction of the Exacom S106 monitoring software has been delayed by other software upgrades and will now be introduced in Q1 2018
20. 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.
21. 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.

S106 Funds Received since 01 November 2016

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
13/01038/FUL	Persimmon Homes	142,158.81
13/00940/OUT	Miller Homes	447,076.49
13/00940/OUT	Story Homes	445,020.56
08/00638/OUT	Taylor Wimpey	500,000.00

Grand Total 2,076,381.50

S106 Agreements Position Statement 01.12.2017

Ref. Site Address	Applicant	Ward	Obligations	Sum NF=non financial	Amount Received	Spent as at 31/3/17	Spend 17/18 as at 17/11/17	Balance as at 01/11/17
1 09/00530/FUL Central Park (Teesside Uni), Haughton Road	Teesside University	Stephenson Ward	Infrastructure (changing facilities RUFC)	259,401.00				
			Maintenance	75,000.00				
			Replacement playing pitches	420,158.00				
2 01/00560/FUL and 10/00715/FUL Mowden Park RUFC, 22 Yiewsley Drive	Yuill Homes, Bellway Homes	Mowden	Recreation Land	151,463.00	-756,059.00	737,064	0	-18,995.18
					-151,463.40	80,463	0	-71,000.00

			Equipped Play Area	80,703.00					
			Transport - Bus Services	92,497.00	-80,703.40	0	24,999	-55,704.40	
			Bus shelter & Dropped Kerbs	31,500.00	-92,496.73	25,824	31,423	-35,249.63	
					-31,812.00	29,598	1,255	-958.58	CLOSED
3	06/00959/FUL	Miller Homes Limited	Park East Ward	NF					
			Affordable Housing						
			Open Space & Football Pitch	NF					
			Open Space & Football Pitch	38,630.00					Received - not yet allocated to a scheme
					-38,630.00	0.00	0.00	-38,630.00	
	06/00959/FUL	Miller Homes Limited	Park East Ward	Play & Recreational Equipment	89,200.00				
			Public Transport (Bus Stops)	40,000.00					
									Received - not yet allocated to a scheme
					-40,000.00	32,525.00		-7,475.00	
			Community Facilities Fund	100,000.00					
					-100,000.00	45,664.67	0.00	-54,335.33	

4	13/00989/FUL	Andrea Abbott	Brinkburn and Faverdale	Open Space	18,876.00					
	Proposed Site For Railway HA By Yuill Homes Alverton Drive									
						-18,876.00	18,876.00	0.00	0.00	CLOSED
5	09/00439/FUL	A Gregory	Harrowgate Hill Ward	Public Open Space	12,200.00					
	Former North Road Service Station	Building Contractors								
						-6,100.00	0.00	0.00	-6,100.00	D16805 311289 £6,100 invoice raised, not yet paid as at 17/11/17
6	09/00706/FUL & 13/01038/FUL	Persimmon Homes (Teesside) Limited	Park West Ward	Highways	137,137.50					
	Site Of Former Darlington Football Club Ground South Terrace									
						-137,137.50	0.00	0.00	-137,137.50	
				Education	67,798.00					Received - not yet allocated to a scheme
				Sports Facilities	45,199.00	-71,079.42	0.00	0.00	-71,079.42	
				Affordable Housing Childrens Play	67,798.00					Received - not yet allocated to a scheme
						-71,079.42	0.00	0.00	-71,079.42	
					by formula = 105,000 £25050 - sales marketing allowances					
7	14/01251/FUL	Darlington Darlington Rugby Football Club Grange Road	Park West Ward	Ecology	9,800.00					
		RUFC With Darlington 1883 FC								
						-71,079.42	0.00	0.00	-71,079.42	
				Highways (access to the club)	12,000.00					
						-12,000.00	12000	0	0.00	CLOSED

8	14/00503/FUL	Opus Land Land At OSGR E429114- N515709 Albert Road	North Road Ward	Ecology	22,000.00					
						-22,000.00	1,967.00	0.00	-20,033.00	
9	14/01173/FUL	Lingfield Point Meadow (Unit 11b) Lingfield Point	Red Hall and Lingfield Ward	Sustainable Transport	23,550.00					Received - not yet allocated to a scheme
						-23,550.00	0.00	0.00	-23,550.00	
				Road Network	55,320.00					Received - not yet allocated to a scheme
						-55,320.00	0.00	0.00	-55,320.00	
10	14/00001/FUL	Opus Lane Field At OSGR E427950 N517041 Faverdale North	Brinkburn and Faverdale Ward	Ecology	5,000.00					
						-5,000.00	0.00	0.00	-5,000.00	
11	14/01012/FUL & 05/00183/FULE	EDF Energy Royal Oak Farm HEIGHINGTON	Heighington and Coniscliffe Ward	Ecology	NF					14/01012/FUL Application under consideration for variation of condition 2 of planning permission 05/00183/FULE (for development of wind turbine site
12	12/00751/FUL & 11/00160/FUL	Mr Robert Stockford Moor House Wind Farm Bishopton Lane GREAT BURDON	Sadberge and Middleton St George Ward	Tree Planting Fund	10,000.00					
						-10,000.00	618.00	0.00	-9,382.00	

			Sustainability	754,138.00					Received - not yet allocated to a scheme
						-109,113.00	0.00	0.00	-109,113.00
				NF					
			Affordable Housing						
			Education	500,000.00					
						-500,000.00	0.00	15,535.00	-484,465.00
				NF					
			Open Space Maintenance						
			20 MPH Zone	2,000.00					
						-2,000.00			
08/00638/OUT	Taylor	Red Hall and Lingfield	Equipped Play Area	0.00					
Lingfield Point (Millfields)	Wimpey Ward								CLOSED
19 08/00703/FUL	Sven	Sadberge and Middleton	Highways (mini bus shuttle service)	20,000.00					
Proposed Business Park Durham Tees Valley Airport MIDDLETON ST GEORGE	Investments	St George Ward							
20 06/00812/FUL	Argon	Brinkburn and Faverdale	Highways	1,000.00					
Land Adjoining Faverdale West	Faverdale Ltd	Ward							
			Ecology	80,000.00					

				Highway Safety TRO	1,500.00	
21	04/01427/FULE	Durham Tees Valley Airport Limited MIDDLETON ST GEORGE	Sadberge and Middleton St George Ward	Highways	20,000.00	
22	06/00536/FUL	Rockliffe Hall	Middlesbrough Hurworth Ward	Protection of LB & phasing	NF	
23	06/00538/FUL	Rockliffe Park HURWORTH	(1) Middlesbrough Hurworth Ward	Protection of LB & phasing	NF	
24	06/00535/FULE	Proposed Golf Course And Clubhouse Rockliffe Park HURWORTH PLACE	Middlesbrough Hurworth Ward	Public Transport (Relocate Bus Stops)	3,544.00	CLOSED
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	639,100.00	
27	13/00110/FUL & 08/01003/OUTE	Humbleton Farm West Auckland Road BURTREE	Darlington Farmers Auction Mart	Heighington and Coniscliffe Ward Sustainable Transport Public Transport (Bus Stops)	670,446.00 20,000.00	

28 13/00940/OUT Sadberge Road, MIDDLETON ST GEORGE	Gladman Miller Homes & Story Homes	Sadberge and Middleton St George Ward	Education	611,000.00					Received - not yet allocated to a scheme		
			Sports Piches	39,209.00	-322,852.40	0.00	0.00	-322,852.40			
			Highways	by formula						Received - not yet allocated to a scheme	
			Highways	by formula		-8,185.34	0.00	0.00	-8,185.34		
			Cycleway and footpath	20,000.00	-39,923.31	0.00	0.00	-39,923.31		Received - not yet allocated to a scheme	
			Bus Pass	NF		-21,136.00	0.00	0.00	-21,136.00		Received - not yet allocated to a scheme
			Open Space	NF							
				2,000,000.00							
29 05/00708/FUL Wimpey Housing Development Geneva Lane	George Wimpey North East Limited	Bank Top and Lascelles Ward	Affordable Housing	670,111.00	-500,000.00	0.00	0.00	-500,000.00	Received - not yet allocated to a scheme		
			Recreation								
30 13/01001/FUL Croft House 2 Tees View HURWORTH PLACE	Broadacres Housing Associatiion	Hurworth Ward	Education	18,330.00	-670,111.00	573,194.46	0.00	-96,916.54			

31 15/00513/FUL Esh Hummersknott Ward
Woodburn Developments
Nursery

Open Spaces	5,460.00
Sustainable Transport	6,000.00
Childrens play	24,057.00
Education	87,000.00
Transport	16,000.00
Tree contribution	7,500.00
Sport & Recreation	10,974.00
Affordable Housing	228,000.00



35	16/00886/OUT	Mr Ramsden & Banks Property	Hurworth Ward	Sustainable Transport	98,400.00	
				Public Transport Contribution	273,000.00	
				Education	305,000.00	
				Affordable Housing	588,500.10	
36	16/00727/FUL	The Coachman Hotel 135 Victoria Road	Maperton Limited	Park East Ward	Sustainable Transport	7,800.00
37	16/00522/FUL	Site Of Former Torrington Works Yarm Road	RMB Automotive Ltd	Red Hall and Lingfield	Highways Contribution	38,541.75
38	16/01020/OUT	Land at Former M Wood, New Lane, Neasham	JN and NJ Sadberge and Swinbank	Middleton St George Ward	Education	30,550.00

			Sustainable Transport	10,800.00
			Affordable Housing	By formula 30% of Market Value of plots 8 and 9 on the plan
39 17/00166/OUT	Bishopston Castle Lane, Bishopston	Sadberge and Middleton St George Ward Developments Limited	Sustainable Transport	By Formula £300 x No of Bedrooms in the development
40 16/00578/OUT	Durham Tees Valley Airport Limited	Sadberge and Middleton St George Ward	Affordable Housing	
			Education	1,834,561.00
			Highways	450,000.00
			Sustainable	251,139.00
			Sustainable Transport	21,000.00
			Sustainable Transport	160,000.00
			Sustainable Transport Sport & S106	210,000.00
			Engine Testing	22,500.00
			Community Use Agreement	30,800.00
				20,000.00
				NF
				NF
41 16/00972/FUL	J&J Havakin and RH Steavenson	Sadberge and Middleton St George Ward	Sustainable Transport	28,800.00
			Public Transport (Bus Stops)	10,500.00

			Education	79,430.00					
			Public Open Space	98,410.00					
42	16/01060/FUL	Fintry Estates	Brinkburn and Faverdale Ward	Public Transport (Bus Stops)	3,750.00				
	Land at West Park Darlington								D31835 3196143 £3,750 invoice raised, not yet paid as at 17/11/17
43	16/01041/FUL	Aldi Stores LTD	Brinkburn and Faverdale Ward	Public Transport (Bus Stops)	3,750.00				
	Land at West Park Darlington								D21738 3203712 £3,750 invoice raised, not yet paid as at 17/11/17
44	17/00283/FUL	Miller Homes Ltd	Heighington and Coniscliffe Ward	Affordable Housing Intermediate Affordable Housing Rented Sustainable Transport Education Highways	NF				
	Land at School Aycliffe Lane				NF				
					90,000.00				
					81,000.00				
				£100K Payable to Durham CC	0.00				
Totals					15,378,661.99	-4,905,470	1,680,952	96,669	-3,125,849

Notes:

If the planning permission expires before the commencement of development the agreement shall cease to have effect

*** Affordable Housing**

- agreements requiring on site provision may be varied to allow a financial contribution as Registered Providers are refusing to take them on.

