

**Regeneration, Culture and Adult Education Scrutiny Committee**  
**12<sup>th</sup> September 2011**

**Report of the Director of the Urban Environment**

**Planning Obligations Report for 2010/11 Financial Year**

**Planning Obligation monies approved, received, allocated and spent within between 1<sup>st</sup> April 2010 and 31<sup>st</sup> March 2011, and S106 and Unilateral Undertaking Legal Agreements signed within the same period.**

**Purpose of Report**

1. To provide information on contributions that were approved, received and spent under the Town and Country Planning Act 1990 (as amended) during the financial year of 2010/11 together with information on the S106 and Unilateral Undertaking Legal Agreements that were signed during 2010/11.

**Background**

2. For several years now this Committee has received reports on planning obligations received for each financial year from 2001/02. This report provides a summary of all the financial planning obligations approved, received and spent during the 2010/11 financial year, along with information on the S106 Agreements and Unilateral Undertakings that were signed during this period.
3. A Planning Obligation is a Legal Agreement between a Local Planning Authority and those with an interest in the land such as a developer. It is designed to mitigate against the impact of a development. Detailed requirements are listed in a Government Circular.
4. As a result of the Community Infrastructure Levy (CIL) Regulations which came into effect on 6<sup>th</sup> April 2010 it is now unlawful for a planning obligation to be taken into account when determining a planning application, that is capable of being charged CIL, if the obligation does not meet all of the following tests:
  - (a) necessary to make the development acceptable in planning terms
  - (b) related to the development; and
  - (c) fairly and reasonably related in scale and kind to the development
5. The planning obligations secured relate to the policies in the Council's adopted Unitary Development Plan 2005 and more recently the Black Country Core Strategy 2011. The Planning Obligations Supplementary Planning Document (SPD) was originally adopted in December 2007 aimed to reduce uncertainty and ensure a consistent approach to planning obligations across the Borough. It introduced a range of new planning obligations for future developments within the Borough. In line with good practice following its first year of implementation, a

revised SPD was adopted in March 2009 in order to ensure that required planning obligations continue to be reasonable and realistic. The SPD is currently being reviewed and a revised SPD is due to be adopted in the Autumn of 2011.

6. As set out in the SPD, planning obligations in the form of financial contributions are not held together in a central fund; rather they are kept within specific budgetary codes dependant upon the purpose of the contribution. These contributions must be spent within any timescales defined by the legal agreement, and any unspent monies are liable to be paid back to the developer with accrued interest.

### **S106 Agreements and Unilateral Undertakings signed 2010/11**

7. During 2010/11 a total of fifty-two Legal Agreements were signed, made up of forty-five S106 Agreements and seven Unilateral Undertakings; these are detailed in **Appendix 1**. It is important to note that the signing of the legal agreement does not necessarily mean that contributions have simultaneously been received. There are two main reasons for this:
  - In the majority of cases the payment of monies is not required until development commences.
  - The S106 is signed on the Outline Application but until the follow on Reserved Matters application has been approved no monies are required.

For these reasons there is often a time lag from when the legal agreement is signed to the receipt by the Council of the financial contributions.

### **Financial Planning Obligations Approved 2010/11**

8. Between 1<sup>st</sup> April 2010 and 31<sup>st</sup> March 2011 financial planning obligations totalling **£2,006,918.55** were approved. These monies were approved from a total of 131 planning applications for the following areas of infrastructure:

<b>Infrastructure</b>	<b>Amount Approved</b>
Open Space, Sport and Recreation	£666,301.90
Transport Infrastructure Improvements	£290,987.22
Public Realm	£161,884.08
Nature Conservation	£64,415.81
Public Art	£12,000
Affordable Housing	£617,695
Libraries	£78,634.54
Traffic Regulation Orders	£65,000
Highway Improvements	£50,000
<b>TOTAL</b>	<b>£2,006,918.55</b>

9. In addition 3 outline planning applications were approved with likely contributions for Education, the actual amounts to be calculated at the time of the Reserved Matters Planning Application when the exact number and mix of the dwellings is known.
10. In the vast majority of cases, the contributions are required to be paid to the Council on commencement of development, therefore there will be a time lag between when the obligations were approved and when the monies are received by the Council. This information on approved obligations is being reported to this Committee as background information only, once monies are received they will be reported to this Committee using the existing reporting mechanism. Monies will be allocated and spent in line with the Supplementary Planning Document and Member Engagement process as agreed by this Committee on 4<sup>th</sup> March 2009; this process requires engagement with Ward Members where resources are allocated and spent, and subsequent approval by relevant Cabinet Members for inclusion in the Capital Programme to be endorsed by Cabinet.

### **Non-Financial Planning Obligations Approved 2010/11**

11. In addition to the financial obligations approved as set out above, a range of additional planning obligations have been approved and will be provided on-site rather than through a financial contribution. A summary of the planning permissions providing on-site infrastructure is as follows:

<b>Infrastructure</b>	<b>Number of Sites with on-site infrastructure approved</b>
Open Space, Sport and Recreation	3
Highway Infrastructure	3
Public Realm	14
Nature Conservation	47
Public Art	9
Affordable Housing	8
Economic and Community Development Statements	23
Historic Environment	2
Air Quality Measures	1

### **Planning Contributions Received during 2010/11**

12. Between 1<sup>st</sup> April 2010 and 31<sup>st</sup> March 2011 financial planning obligations totalling **£531,436.48** were received for the following areas of infrastructure:

<b>Type of Obligation</b>	<b>Amount Received</b>
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Transport Improvements	Infrastructure	£118,973.32
Public Realm		£16,183.43
Open Space, Sport and Recreation		£363,914.38
Nature Conservation		£6,345.84
Libraries		£11,019.51
Traffic Regulation Orders		£15,000
<b>TOTAL</b>		<b>£531,436.48</b>

### **Planning Contributions Spent during 2010/11**

13. Between 1<sup>st</sup> April 2010 and 31<sup>st</sup> March 2011 financial planning obligations totalling **£625,742.24** were spent for the following areas of infrastructure:

<b>Infrastructure</b>	<b>Amount Spent</b>
Open Space, Sport and Recreation	£360,611.78
Transport Infrastructure Improvements	£18,993.18
Public Realm	£3,991.52
Libraries	£2,623.70
Air Quality Monitoring Equipment	£24,522.06
Affordable Housing	£200,000.00
Education	£15,000.00
<b>TOTAL</b>	<b>£625,742.24</b>

14. A detailed breakdown of all monies received and spent during 2010/11 can be found in the following appendices:

Transport Infrastructure Improvements	– <b>Appendix 2</b>
Open Space, Sport and Recreation	- <b>Appendix 3</b>
Nature Conservation	- <b>Appendix 4</b>
Public Realm	- <b>Appendix 5</b>
Libraries	- <b>Appendix 6</b>
Other	- <b>Appendix 7</b>

### **Affordable Housing**

15. In terms of on-site provision of affordable housing a total of 92 dwellings were built in 2010/11; this equates to 16% of the total number of dwellings completed within the financial year. These Affordable Housing dwellings have been delivered through a combination of S106 Agreements and through other means outside of the S106 process, for example funding from the Homes and Communities Agency.

### **Finance**

16. This report is financial in nature and relevant information is contained within the body of the report and the attached Appendices.

### **Law**

17. The relevant law is:

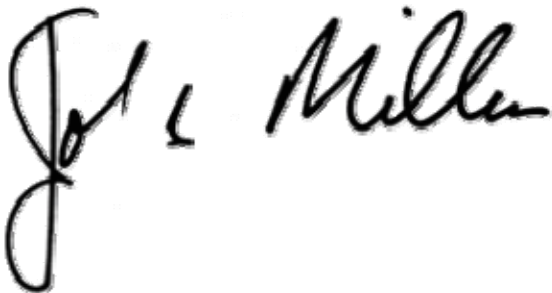
- S106 of the Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004
- Circular 05/2005 – Planning Obligations
- CIL Regulations (April 2010)

### **Equality Impact**

18. The proposals take into account the Council's Equal Opportunities Policy and seek to enable all sections of the community (including young children and young people) within the Borough to gain from the effective implementation and planning obligations and the associated benefits envisaged.

### **Recommendation**

19. It is recommended that the Select Committee notes the report.



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**List of Background Papers**

*Circular 05/2005 – Planning Obligations*

*Planning Obligations Supplementary Planning Document (March 2009)*

*Black Country Core Strategy (February 2011)*