

**Regeneration, Culture and Adult Education Scrutiny Committee –
7th March 2012**

Report of the Director of the Urban Environment

**Planning Obligations Update Report - April to September 2011
S106 and Unilateral Undertaking Legal Agreements signed between 1st April 2011
and 30th September 2011, and planning obligation monies received and approved
within the same period.**

Purpose of Report

1. To provide information on contributions that were received and approved under the Town and Country Planning Act 1990 (as amended) during the first six months of the 2011/12 financial year together with information on the S106 and Unilateral Undertaking Legal Agreements that were signed during the same six month period.

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 received during the first six months of the 2011/12 financial year, along with information on the S106 Agreements and Unilateral undertakings that were signed during this period. It is not possible at this stage to report planning obligation expenditure for the first six months of the 2011/12 financial year as finance budgets are not reconciled and it is common practice for monies to often be not drawn until the end of the financial year. As such a full account of all Planning Obligation Expenditure for the 2011/12 financial year will be reported to this Committee early in the next municipal year once all the financial transactions have been completed and reconciled.
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.
4. As a result of the Community Infrastructure Levy (CIL) Regulations which came into effect on 6th 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:
 - necessary to make the development acceptable in planning terms
 - directly related to the development; and
 - 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 Black Country Core Strategy (2011) and the revised Planning Obligations Supplementary Planning Document (SPD) which was adopted in September 2011. The purpose of the SPD is to reduce uncertainty and ensure a consistent approach to planning obligations across the Borough.
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 April to Sept. 2011

7. During the first 6 months of the 2011/12 financial year a total of 70 Legal Agreements were signed, made up of 65 S106 Agreements and 5 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 between 1st April to 30th September 2011

8. Between 1st April and 30th September 2011 financial planning obligations totalling **£559,938.27** were approved. These monies were approved from a total of 50 planning applications for the following areas of infrastructure:

Infrastructure	Amount Approved
Open Space, Sport and Recreation	£315,526.68
Transport Infrastructure Improvements	£102,791.20
Public Realm	£74,634.50
Nature Conservation	£19,264.67
Libraries	£32,721.22
Traffic Regulation Orders	£15,000
TOTAL	£559,938.27

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 member engagement process as agreed by this Committee on 4th March 2009; this process requires engagement with Ward Members on allocation and spend, and subsequent approval by relevant Cabinet Members for inclusion in the Capital Programme to be endorsed by Cabinet.

Non - Financial Planning Obligations Approved between 1st April to 30th September 2011

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 number of planning permissions providing on-site infrastructure is as follows:

Infrastructure	Number of Sites with on-site infrastructure approved
Highway Infrastructure	3
Public Realm	1
Nature Conservation	7
Public Art	3
Affordable Housing	1
Economic and Community Development Statements	6
Historic Environment	1
Noise Mitigation measures	1

Planning Contributions received between 1st April to 30th September 2011

13. Between 1st April and 30th September 2011 financial planning obligations totalling **£655,603.87** were received for the following areas of infrastructure:

Type of Obligation	Amount Received
Transport Infrastructure Improvements	£63,281.24
Public Realm	£30,157.00
Open Space, Sport and Recreation	£463,755.18
Nature Conservation	£45,893.14
Libraries	£7,517.31

Bus Shelter Contribution	£25,000.00
Traffic Regulation Orders	£20,000.00
TOTAL	£655,603.87

14. A detailed breakdown of all monies received during between April and September 2011 can be found in the following appendices:

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

Service Improvements

15. Planning Obligations – A Guide for Members

A Guide to Planning Obligations has been created specifically for Members which explains the types of obligations required in Dudley Borough, how they are delivered, along with details on how financial contributions are allocated, spent and monitored. The Guide is available to view on the Members Portal at the following link:

<http://membersportal/home/advice-and-guidance/planning-obligations>

Planning Obligations Interactive Search Facility

A web-based search facility has been developed to provide Members with the ability to access up-to-date information on financial obligations approved, received and spent. The search facility will be available on the Members Portal and will enable Members to search for information on specific wards, types of contributions and/or specific planning permissions. It is anticipated that the Search Facility will be available from 1st April 2012 and a demonstration will be provided at this meeting.

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:

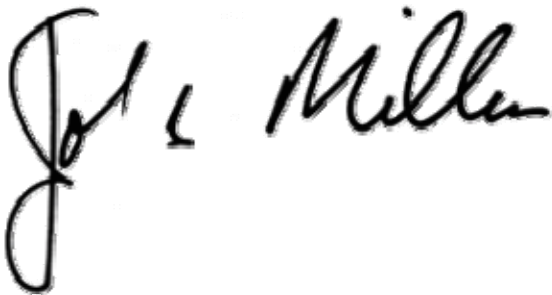
- S106 of the Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004
- CIL Regulations (Amended) 2011
- Circular 05/2005 – Planning Obligations

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 Regeneration, Culture and Adult Education Scrutiny Committee notes the report.



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List of Background Papers

Circular 05/2005 – Planning Obligations
Planning Obligations Supplementary Planning Document
Black Country Core Strategy