

**Regeneration, Culture and Adult Education Scrutiny Committee –
6th March 2012**

Report of the Director of the Urban Environment

**Informal Planning Obligations Update Report - April to September 2012
S106 and Unilateral Undertaking Legal Agreements signed between 1st April 2012
and 30th September 2012, and planning obligation monies, approved, received
and spent 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 first six months of the 2012/13 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 and spent during the first six months of the 2012/13 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.
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:
 - o necessary to make the development acceptable in planning terms
 - o directly related to the development; and
 - o 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.

Community Infrastructure Levy (CIL)

7. The Community Infrastructure Levy is a charge on development which Local Planning Authorities (LPAs) can choose to set and which is designed to help fund required infrastructure identified in their Plans. As a result of the 2010 CIL Regulations LPAs are now empowered, but not required, to implement a CIL regime. Although CIL remains optional, the Regulations significantly limit the scope of what the Council can seek under Planning Obligations After April 2014. Approval was gained at Cabinet on 6th December 2012 to consult on a Preliminary Draft Charging Schedule; the consultation period ran from 11th January to 22nd February 2013 and the Council is currently considering the responses. It is anticipated that a Draft Charging Schedule will be submitted to Cabinet for a further round of consultation in September/October 2013. The final decision as to whether the Council adopts a CIL will be then be considered by Cabinet.

S106 Agreements and Unilateral Undertakings signed April to Sept. 2012

8. During the first 6 months of the 2012/13 financial year a total of 17 Legal Agreements were signed, made up of 14 S106 Agreements and 3 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 2012

9. Between 1st April and 30th September 2012 financial planning obligations totalling **£111,115.77** were approved. These monies were approved from a total of 5 planning applications for the following areas of infrastructure:

Infrastructure	Amount Approved
Open Space, Sport and Recreation	£7,888.43
Transport Infrastructure Improvements	£61,665.84
Public Realm	£2,871.18
Libraries	£1,148.34
Education	£727.80
Air Quality Improvements	£271.18
Traffic Regulation Orders	£36,543.00
TOTAL	£111,115.77

10. In addition one outline planning application was approved with Education and Bus Shelter contributions, with the actual amounts to be calculated at the time of the Reserved Matters application when the exact detail is known.

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.

Non - Financial Planning Obligations Approved between 1st April to 30th September 2012

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	1
Public Realm	8
Nature Conservation	22
Public Art	4
Affordable Housing	1
Economic and Community Development Statements	7
Historic Environment	1
Open Space, Sport and Recreation	2
Air Quality Improvements	12
Other: Football Pitch and Community Building	1

Planning Contributions received between 1st April to 30th September 2012

12. Between 1st April and 30th September 2012 financial planning obligations totalling **£304,020.02** were received for the following areas of infrastructure:

Type of Obligation	Amount Received
Education	£727.80
Libraries	£4,963.73
Nature Conservation	£9,053.49
Open Space, Sport and Recreation (Construction)	£99,983.37
Open Space, Sport and Recreation (Maintenance)	£90,121.38
Public Realm	£16,069.77
Traffic Regulation Orders	£5,000.00
Transport Infrastructure Improvements	£78,100.48
TOTAL	£304,020.02

Planning Contributions Spent between 1st April to 30th September 2012

13. Between 1st April and 30th September 2012 financial planning obligations totalling **£73,873.10** were spent for the following areas of infrastructure:

Type of Obligation	Amount Spent
Open Space, Sport and Recreation (Maintenance)	£66,654.28
Traffic Regulation Orders	£7,218.82
TOTAL	£73,873.10

14. Monies received are 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 where resources are allocated and spent, and subsequent approval by relevant Cabinet Members for inclusion in the Capital Programme to be endorsed by Cabinet.

Ward Member Engagement on monies received prior to April 2012

15. Between April and September 2012 Delivery Services consulted ward members on the proposed spend of 45 separate Transport Infrastructure Improvement monies (equating to just over £125,000) which had been received prior to April 2012. A summary of these consultations can be found in **Appendix 2**.

Ward Member Engagement on monies received between April and September 2012

16. Details of consultation undertaken on monies received between April and September 2012 is set out in the relevant appendices as set out below.
17. A detailed breakdown of all monies received and spent between April and September 2012 can be found in the following appendices:

Transport Infrastructure Improvements –	Appendix 3
Public Realm -	Appendix 4
Open Space, Sport and Recreation (Construction) -	Appendix 5
Open Space, Sport and Recreation (Maintenance) -	Appendix 6
Nature Conservation -	Appendix 7
Libraries-	Appendix 8
Education-	Appendix 9
Traffic Regulation Orders-	Appendix 10

Finance

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

Law

19. The relevant law is:

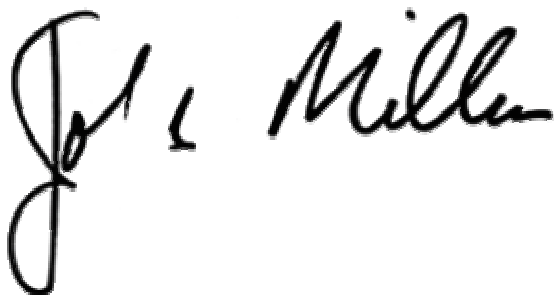
- S106 of the Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004
- CIL Regulations (Amended) 2011

Equality Impact

20. 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

21. It is recommended that the Regeneration, Culture and Adult Education Scrutiny Committee notes the report.



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List of Background Papers

Planning Obligations Supplementary Planning Document (September 2011)
Black Country Core Strategy (February 2011)
Community Infrastructure Levy (CIL) Regulations (Amended) 2011
National Planning Policy Framework (March 2012)