

Report of the Strategic Director of Regeneration and Culture to the meeting of the Area Planning Panel (SHIPLEY) to be held on 12 January 2011

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Summary Statement

Bi-annual monitoring report to inform members of progress on Section 106 Agreements for the first six months of the financial year 2010/2011.

Miscellaneous Item

Planning Agreements Annual Monitoring report

Julian Jackson
Assistant Director (Planning)

Report Contact: Michala Bartle
Planning Obligations Monitoring
Officer
Phone: (01274) 432522
E-mail: michala.bartle@bradford.gov.uk

Portfolio:

Environment and Culture

Overview & Scrutiny Area:

Environment and Waste Management



1.0 SUMMARY

- 1.1 The Shipley Area Planning Panel is requested to note the contents of this report.
- 1.2 This bi - annual monitoring report provides an assessment of the Agreements signed for the first six month of the financial year 2010/2011 and for the income received since the appointment of the Planning Obligations Monitoring Officer.
- 1.3 This report also provides an update on the establishment of the planning service Section 106 monitoring system.

2.0 BACKGROUND

- 2.1 Section 106 Agreements or Planning Obligations are normally entered into in connection with the grant of planning permission. The Council has the power to enter into a legal agreement with a developer under Section 106 of the Town & Country Planning Act 1990, to make acceptable development which might otherwise be unacceptable in planning terms.
- 2.2 Planning Agreements can be used to prescribe mitigate and compensate for the impact that a development may cause by:
 - Restricting the development or use of land referred to in the Agreement in any way
 - Requiring specific operations or activities to be carried out on the land referred to in the Agreement
 - Requiring the land to be used in a particular way
 - Requiring a financial contribution to be made to the Local Planning Authority on a specified date or dates, or periodically
- 2.3 The majority of Agreements relate to major developments and can cover may issues including:

The provision of an element of affordable housing and phasing the release of properties

- Rules governing the management arrangements for affordable housing and the method of discount to be applied to dwellings to ensure they are genuinely affordable.
- Commuted sums for the provision of off site affordable housing
- Contributions towards off site highway improvement works such as junction improvements or traffic calming
- Details relating to green travel plans to be implemented in order to minimise impacts on the highway network and improve sustainability
- Landscape management plans/payment to secure appropriate long term management of open areas, landscaping or wildlife areas
- The provision of play/recreation facilities or equipment or commuted sums. These could relate to on or off site facilities

2.4 Copies of planning Agreements are currently available to view on the Council's website and it is also proposed to publish details of live Agreements on the website together with this bi-annual progress report. Work is also being undertaken to create a separate "Section 106 Agreement" area on the Council's website. This area will include summaries of monies received and where spent.

3.0 DEFINITIONS

3.1 Members are advised that there are a number of definitions used in connection with Section 106 Agreements. For ease of reference the following shall apply in this report:

- A clause: part of an Agreement detailing the obligations which can be a financial commitment or agreement to do works or even the revocation of a previous planning permission.
- Trigger point: within an Agreement, this clearly specifies the point in time when the developer needs to carry out work or make a payment. For example, a payment of £10,000.00 is to be paid upon occupation of the 25th dwelling unit.

4.0 AGREEMENTS SIGNED

4.1 28 Section 106 Agreements were completed between 1 April 2010 and 30 September 2010. The majority of these Agreements contained multiple numbers of clauses. In comparison, 36 Agreements were signed during the whole of 2009/2010.

4.2 Two of the 28 Agreements were Deed of Variations to original Agreements. One of these was to alter the trigger points for when the payment of monies is due and the other was to acknowledge a change in ownership of the application site.

4.3 The majority of clauses contained financial requirements for example the provision of improved recreation facilities.

4.4 There were 82 clauses in total, of which 53 had a financial obligation. The value of all financial obligations is £3,779,121.60. Compared to the whole of 2009/2010 where there was a total of 57 financial clauses totalling £4,277,114.00.

4.5 Of the 29 non financial clauses, 10 were for the transfer of dwellings to a Registered Social Landlord (RSL).

4.6 Appendix 1 details all the new Agreements signed by ward, obligation type and obligation value.

4.7 Table 1 below shows the number and value of clauses requiring financial contributions by type.

Table 1: Number and value of obligations by clause type

Obligation type	No of clauses	Total value of clauses
Recreation Open Space	18	£717,084.00
Education	12	£1,227,958.00
Affordable housing commuted sums	2	£501,000.00
Highways, physical infrastructure and travel	13	£1,132,600.00
Metro commuted sums	7	£198,679.60
Works to trees	1	£1,800.00
Total	53	£3,779,121.60

4.8 Table 2 below shows the number of non financial contribution clauses by type.

Table 2: Number of non financial obligations by clause type

Obligation type	No of clauses
Affordable housing – transfer of dwellings to RSL	10
Highway works (on and off site)	7
Metro	1
Other	11
Total	29

4.9 Education contributions accounted for the greatest financial value of obligations negotiated. Open space, sport and recreation account for the greatest number of clauses as the thresholds for the requirement for open space contributions are much lower than for other contribution types.

4.10 It should be noted that the benefits associated with an Agreement cannot be secured until the planning permission is implemented. Given that permissions are normally valid for three years this creates uncertainty about when and if contributions will be received. Once the permission has lapsed the ability to receive such benefits is lost.

4.11 It should also be noted that due to the economic downturn the number of developments commencing is significantly reduced compared to previous years. To date only 4 of the 28 permissions granted subject to a Section 106 Agreement have commenced.

4.12 Of the 4 developments which have commenced, none of them contain financial obligations and so no money has been sought from these developments.

5.0 PAYMENTS RECEIVED

5.1 Financial contributions will normally be received when a particular trigger point has been reached. This is normally prior to the commencement of development and/or for large scale developments at another pre agreed stage in the construction work.

5.2 Since the 1st January 2009 to 30th September 2010 the total amount of Section 106 monies received is £1,387,948.20.

5.3 Table 3 shows the area breakdown of money received by obligation type.

Table 3: Money received per area by obligation type

	Bradford East	Bradford West	Bradford South	Shipley	Keighley	Total
Recreation open space	£50,200.00	£10,500.00	£142,581.00	£48,806.20	£13,405.00	£265,492.20
Affordable housing		£60,000.00		£125,000.00		£185,000.00
Highways		£5,030.00		£5,150.00		£10,180.00
Metro		£101,313.00		£12,000.00	£813,963.00	£927,276.00
Total	£50,200.00	£176,843.00	£142,581.00	£190,956.20	£827,368.00	£1,387,948.20

5.4 Appendix 2 gives a breakdown of the monies received by Ward and obligation type.

6.0 BANKRUPT DEVELOPERS

6.1 Given the unstable financial climate some Developers are no longer trading and have been, or are in the process of being declared bankrupt. Where these developers owe the Council monies as a result of a Section 106 Agreement, the Council's Debt Recovery team have been engaged to resolve the matter and hopefully secure some of the outstanding monies.

7.0 DEED OF VARIATION AGREEMENTS

7.1 Members will be aware that the Assistant Director (Planning) presented a report to the Regulatory and Appeals Committee on the 7th December 2009. This report concerned the provisions to be implemented in the case of Developers who were not in a financial position to pay monies owed or to agree to full contributions.

7.2 In the case of new proposals where Developers demonstrate that they cannot agree to full contributions the Planning Service will ask for a full Financial Viability Statement to be submitted. This document is then assessed and the findings considered. If the Council believe that it is important to promote a development proposal despite the developer contributions not being met in full, one of four routes will be adhered to. These routes are:

- An agreement to accept reduced payments or contributions
- Deferred payments whereby the obligations will be met but payment will be phased

- An overage agreement will be drawn up where Developers agree to pay contributions if profits from the development exceed a minimum level
- A hybrid agreement to require specified key contributions (for example highway works) are met early by the Developer and then the remainder of the contributions being met through an overage agreement or through deferred payments. This route is normally only used if the Development would not be acceptable in principle without the key contributions being met initially

7.3 Where Developers have an extant planning permission and have met their trigger point for payment of Section 106 monies, Assistant Director (Planning) may agree on revised trigger points and a new payment schedule. For example, on a large housing scheme monies could be made on a staged payment basis of occupation of every 25th dwelling as opposed to the whole sum being paid on commencement of development. This results in a Deed of Variation being completed. Members are advised that in such circumstances the original sums of money are achieved by the end of the development.

8.0 FINANCIAL AND RESOURCE APPRAISAL

8.1 The monitoring of Section 106 Agreements involves one full-time post within the Planning Service. Significant benefits have already been shown by the introduction of this post with previous unpaid developer contributions being highlighted, pursued and secured.

8.2 It is anticipated that the introduction of a monitoring fee will occur later this year. This fee will then be used to fund the monitoring post. Research is currently being undertaken to determine the best course of action for the introduction of the fee.

9.0 LEGAL APPRAISAL

9.1 Planning Obligations are controlled by Section 106 of the Town & Country Planning Act 1990, Section 46 of the Planning and Compulsory Purchase Act 2004 and ODPM Circular 05/05 Planning Obligations.

10.0 OTHER IMPLICATIONS

10.1 Equal Rights

There are no equal rights implications arising from this report.

10.2 Sustainability implications

There are no direct sustainability implications arising from this report.

10.3 Community safety implications

There are no direct community safety implications arising from this report.

10.4 Human Rights Act

There are no direct human rights implications arising from this report.

10.5 Trade Union

There are no trade union implications arising from this report.

10.6 Not for publication documents

None.

11.0 RECOMMENDATIONS

11.1 It is recommended that the contents of this report be noted.

12.0 APPENDICES

12.1 Appendix 1 - New Agreements signed by ward, obligation type and obligation value.

12.2 Appendix 2 – Breakdown of Section 106 monies received since January 2009 to September 2010 by Ward and Area.

13.0 BACKGROUND DOCUMENTS

13.1 None.

Ward	Application	Applicant	Address	Proposal	Date S106	Clause	Summary	Contribution Value	Total Amount Received
Baildon	10/00926/FUL	AG Developments	13 Prod Lane Baildon West Yorkshire	Construction of dormer bungalow	08-Jun-10	1	Parking spaces		
Baildon	09/04916/FUL	Mr Martin Haines	1 Belmont Avenue Baildon West	One new dwelling and an extension to an existing	22-Jun-10	1	Use of land		
Bingley Rural	09/04432/OUT	GMV Thirteen Limited	Manywells Industrial Estate Manywells Brow Cullingworth Bingley West Yorkshire	Construction of mixed use development comprising business (B1, general industrial (B2) and storage and distribution (B8) uses (approximately 9,900 sqm floorspace); a nursing home (4,000 sqm floor space); residential development (60 dwellings maximum); 3.1	26-Aug-10	1	Affordable		
					26-Aug-10	2	Education	189187	
					26-Aug-10	3	Recreation	30000	
					26-Aug-10	4	Enhanced bus	30000	
					26-Aug-10	5	Traffic control	4000	
					26-Aug-10	6	Beneficially		
Bowling and Barkerend	09/00134/OUT	Mr Mohammed Shaukat	202 - 206 Leeds Road Bradford West Yorkshire	Creation of approx. 2787 sq.m of residential accommodation, 603 sq.m of restricted class A1 retail accommodation and 1672 sq.m of class B1 office accommodation with associated car parking	25-May-10	1	Affordable		
					25-May-10	2	TRO contribution	6000	
					25-May-10	3	Recreation	22275	
					25-May-10	4	Education	78832	
Bowling and Barkerend	09/03790/FUL	Mr Rashid Ahmed	Land To North Of Allotment Gardens	Construction of single storey sports pavilion and	27-May-10	1	Car park		
Bowling and Barkerend	10/00645/MAO	City Of Bradford Metropolitan District Council	Land South Of 20 - 44 Pollard Lane Bradford West Yorkshire	Residential development 2.5 Hectares	23-Sep-10	1	Affordable		
					23-Sep-10	2	Affordable		
					23-Sep-10	3	Education	275912	
					23-Sep-10	4	Recreation	113800	
					23-Sep-10	5	Traffic Impact		
					23-Sep-10	6	Section 278		
City	10/00007/FUL	Mr Paul Smith	21 Paradise Street Bradford West Yorkshire	Change of use of warehouse to offices and apartments with extension and car parking.	13-Apr-10	1	Travel cards	8236	
					13-Apr-10	2	TRO contribution	5000	
					13-Apr-10	3	Section 278		
City	10/00017/FUL	Mr Paul Smith	Car Park West Of 21 Paradise Street Bradford West Yorkshire	15 apartments with undercroft car parking	20-Apr-10	1	Metro cards	9266	
					20-Apr-10	2	TRO contribution	5000	
					20-Apr-10	3	Section 278		
City	09/02874/VOC	Mr Ian Butterworth	Land To The North Of 182 Horton	Variation of conditions 5, 6, 7 and 9 of approval	06-Jul-10	1	Recreation	15000	
City	07/02938/OUT	Asquith Properties Ltd & Asquith Citygate LLP	Citygate Manchester Road Bradford West Yorkshire	Outline application for mixed-use development consisting of residential, live-work units, hotel with conference facility, ancillary A1, A2, A3 and A4 uses, public space and car parking	21-Jul-10	1	Affordable	326000	
					21-Jul-10	2	Education	122304	
					21-Jul-10	3	Recreation	164000	
					21-Jul-10	4	Puffin crossings	100000	
					21-Jul-10	5	Affordable		
City	07/02376/COU	Browntree Properties Limited And Mr S Patel	Legrams Mill 1 Summerville Road Bradford West Yorkshire BD7 1NS	Change of use from B2: General Industrial to A1: Shops, A2: Financial & Professional Services, A3: Restaurants & Cafés and C3 Dwelling Houses (73	12-Aug-10	1	Recreation	25631	
					12-Aug-10	2	Student residents		
					12-Aug-10	3	DoV - addition of		
City	07/04214/FUL	Paul Smith	179 Sunbridge Road Bradford West Yorkshire BD1 2HQ	Conversion of existing building into 163 apartments with additional storey and new roof	07-Sep-10	1	Recreation	33400	
					07-Sep-10	2	Education	29000	
					07-Sep-10	3	Highways	50000	
					07-Sep-10	4	Affordable		
					07-Sep-10	5	On site		
Great Horton	09/00794/OUT	Mr J Tailor	Horton Industrial Park Great Horton Road Bradford West Yorkshire BD7	Demolition of industrial building and warehouse and the construction of 24 large family sized	20-Apr-10	1	Affordable		
					20-Apr-10	2	Recreation sum	16150	
Great Horton	10/02147/OUT	Chesapeake Corporation	Scott Works Hollingwood Lane Bradford West Yorkshire BD7 2XY	Renewal of outline planning permission 07/010070/OUT - Residential Development	10-Aug-10	1	Affordable		
					10-Aug-10	2	Education	164640	
					10-Aug-10	3	Recreation	67600	
Heaton	10/00401/FUL	Taylor Wimpey (West	Hallmark Cards Limited Bingley Road	Demolition of building 4 and associated houses,	11-Aug-10	1	Revised		
Ilkley	10/00139/FUL	Mr Graeme Walker	The Crescent Hotel Brook Street	Conversion of second and third floors to 10	15-Apr-10	1	Metro cards	6177.6	
Ilkley	09/03175/FUL	Mr Steven Rigby	Land Former Ilkley Middle School Valley Drive Ilkley West Yorkshire	Construction of 56 specialised housing apartments for persons aged 60 and over (class C2) to provide care to people in need of care	20-May-10	1	Affordable		
					20-May-10	2	Bus kerbs	6000	
					20-May-10	3	Recreation	8025	
					20-May-10	4	TRO	6000	
					20-May-10	5	RPI		
Ilkley	09/00871/OUT	Tesco Stores Ltd	Tesco Store Springs Lane Ilkley West	Mixed use development to provide 5 no single	15-Jul-10	1	Open space	9150	

Ward	Application	Applicant	Address	Proposal	Date S106	Clause	Summary	Contribution Value	Total Amount Received
			Yorkshire LS29 8UA	storey B1/B8 class use business units (929sqm), office floor space (1858sqm) and residential care	15-Jul-10	2	Bus stop upgrade	3000	
					15-Jul-10	3	TRO's	3000	
Ilkley	09/00857/FUL	Tesco Stores Ltd	Land At Railway Road And Mayfield Road Ilkley West Yorkshire LS29 8JB	Construction of replacement Tesco Class A1 food store with car parking, landscaping and associated works	15-Jul-10	1	Public Transport	136000	
					15-Jul-10	2	Phase 1 Highway	583000	
					15-Jul-10	3	Phase 2 Highway	314600	
					15-Jul-10	4	On street parking		
					15-Jul-10	5	Opening of new		
					15-Jul-10	6	Index linked		
Keighley East	09/05925/HOU	Mr Alan Wright	Dimples Cottage Street Lane Morton	Alterations and extensions to existing single	18-May-10	1	Extension of		
Keighley East	10/00519/OUT	Mr Philip Inman	Land Bounded By Parkwood Rise, Broom Street And Park Lane Keighley West Yorkshire BD21 4QY	Construction of 12 new dwellings on land between Park Lane and Parkwood Rise	24-Jun-10	1	Recreation	12715	
					24-Jun-10	2	Education	19659	
					24-Jun-10	3	Tree planting	1800	
Keighley East	10/02418/OUT	Mr D Busfield	Wyngarth Park Lane Keighley West Yorkshire BD21 4QY	Construction of 12 dwellings	07-Sep-10	1	Recreation	13184	
					07-Sep-10	2	Education	19569	
Keighley East	09/02304/FUL	MINI MAYHEM UK LTD	Unit 3 & 3A Acre Park Dalton Lane	Change of use of units 3 and 3A from Use Class	23-Sep-10	1	TRO contribution	5000	
Little Horton	10/01467/MAO	Mr Idris Mansoor	Land North Of Dalcross Grove Bradford West Yorkshire	Construction of 18 dwellings- Renewal of planning application 07/00114/OUT	20-Jul-10	1	Affordable		
					20-Jul-10	2	Education	56759	
					20-Jul-10	3	Recreation	15754	
					20-Jul-10	4	RPI		
Queensbury	10/01302/FUL	Mr Robert Cooke	Land Former Cooper Lane First School Cooper Lane Bradford West Yorkshire	Construction of 14 dwellings plus associated external works	16-Jun-10	1	Education	35600	
					16-Jun-10	2	Recreation	11400	
					16-Jun-10	3	Relocation of bus		
Royds	07/09220/FUL	Britannia Developments LTD	Land At Grid Ref 413822 429081 Western Way Bradford West Yorkshire	Construction of 90 Dwellings in 26 blocks comprising apartments and family houses	19-Aug-10	1	Education	100000	
					19-Aug-10	2	Education	100000	
					19-Aug-10	3	Education	36496	
					19-Aug-10	4	Recreation	109000	
					19-Aug-10	5	Affordable		
					19-Aug-10	6	DoV - Recreation	44496	
					19-Aug-10	7	DoV - Education	100000	
					19-Aug-10	8	DoV - Education	100000	
					19-Aug-10	9	DoV - Education	100000	
Shipley	10/01538/FUL	Orthocare (UK) Limited	Chandlers Wharf Riverside Estate	Construction of a new company headquarters	13-Jul-10	1	TRO	3000	
Windhill and Wrose	10/02064/FUL	McCarthy And Stone Retirement Lifestyles Ltd	Rockwood Highfield Road Idle Bradford West Yorkshire BD10 8QH	Construction of retirement living housing for the elderly, communal facilities, landscaping and car parking	16-Sep-10	1	Affordable	175000	
					16-Sep-10	2	Highway	48000	
					16-Sep-10	3	Recreation	50000	

Appendix 2 – payments received by Ward by obligation type

Recreation open space

Area	Ward	Amount	Total
Bradford East	Bowling and Barkerend	£25,200.00	£50,200.00
	Eccleshill	£25,000.00	
Bradford West	Clayton and Fairweather Green	£10,500.00	£10,500.00
Bradford South	Royds	£10,550.00	£142,581.00
		£28,775.00	
	Tong	£91,756.00	
	Wibsey	£11,500.00	
Shipley	Shipley East	£23,457.00	£48,806.20
	Bingley	£2,445.84	
		£13,120.00	
		£2,445.84	
		£2,445.84	
		£2,445.84	
		£2,445.84	
Keighley	Ilkley	£13,405.00	£13,405.00
Total			£265,492.20

Affordable Housing

Area	Ward	Amount	Total
Bradford West	University	£60,000.00	£60,000.00
Shipley	Shipley	£125,000.00	£125,000.00
Total			£185,000.00

Highways

Area	Ward	Amount	Total
Bradford West	Heaton	£5,030.00	£5,030.00
Shipley	Bingley	£5,150.00	£5,150.00
Total			£10,180.00

Metro

Area	Ward	Amount	Total
Bradford West	City	£10,373.00	£101,313.00
		£20,940.00	
		£70,000.00	
Keighley	Ilkley	£4,961.00	£5,863.00
		£451.00	
		£451.00	
	Keighley Central	£650,000.00	£808,100.00
		£8,100.00	
		£150,000.00	
Shipley	Bingley	£12,000.00	£12,000.00
Total			£927,276.00