

# Wolverhampton City Council

## **OPEN DECISION ITEM**

<b>Committee / Panel</b>	<b><u>PLANNING COMMITTEE</u></b>	<b>Date: 31<sup>st</sup> January 2012</b>
<b>Originating Service Group</b>	<b>EDUCATION AND ENTERPRISE</b>	
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<b>Title:</b>	<b>A FLEXIBLE APPROACH TO SECTION 106 AGREEMENTS - UPDATE</b>	

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### **Recommendation**

That Planning Committee note the contents of this report.

# **A FLEXIBLE APPROACH TO SECTION 106 AGREEMENTS - UPDATE**

## **1.0 Purpose of the Report**

1.1 To inform Planning Committee of flexible approaches to agreements made under Section 106 of the Town and Country Planning Act 1990 between 16<sup>th</sup> September 2011 and 13<sup>th</sup> January 2012.

## **2.0 Background**

2.1 On 23<sup>rd</sup> March 2011 a report "Flexible Approaches to Planning Obligations and the Community Infrastructure Levy" was presented to Cabinet. Cabinet agreed the continued application of flexible and proactive approaches to planning obligations in response to the economic downturn.

2.2 The report was presented to Planning Committee on 29<sup>th</sup> March for information. Planning Committee asked for a quarterly update on the implementation of the flexible approach to S106 agreements.

## **3.0 Flexible Approach to S106 Agreements**

3.1 Between 16<sup>th</sup> September 2011 and 13<sup>th</sup> January 2012, a flexible approach was taken in negotiating the following S106 agreement:

11/00828/FUL Compton Park - Demolition of the existing St Edmund's Catholic School & erection of indoor training pitch & associated building, provision of all-weather football pitch & replacement of existing flood lights, reorganisation & upgrading of existing pitches, associated staff, parent & visitor parking & the erection of a replacement pavilion & three floodlit tennis courts. Demolition of University halls of residence, buildings & redevelopment to provide replacement St Edmund's school comprising conversion, reconfiguration & extension of the retained University buildings together with external sport, recreation areas, car parking & the erection of 55 four & five bedroom two storey dwellings, access roads & open space.

S106 (agreed by Planning Committee 20<sup>th</sup> December 2011 and completed 21<sup>st</sup> December 2011) requires the phased payment of £2.45 million towards the new St. Edmund's school with no requirement for affordable housing, public open space and play facilities or public art.

3.2 In 2011 a flexible approach was taken in negotiating a total of six S106 agreements:

- 10/00322/FUL - Black Horse - 10 houses
- 06/0462/OP - Ward Street - Outline residential led mixed use development
- 05/1989/OP - Goodyear – Outline mixed use development
- 08/01081/OUT – Fordhouses Cricket Ground – Outline residential development
- 10/00598/FUL - Blakenhall Gardens – 100 houses, 2 flats and 10 retail units
- 11/00828/FUL - Compton Park – see above

## **4.0 Conclusion**

4.1 A flexible approach is being taken to S106 agreements, in line with the Cabinet resolution of 23<sup>rd</sup> March.

## **5.0 Financial, Environmental and Equalities Implications**

5.1 There are no financial, environmental or equalities implications to this information report.

## **6.0 Legal Implications**

- 6.1 Where circumstances justify a flexible approach to planning obligations in the economic downturn, Cabinet is aware that in coming to any individual decision, Planning Committee will have due regard to the Planning and Compulsory Purchase Act 2004, the Town and Country Planning Act 1990, the existing Development Plan Policies, relevant Planning Policy Statements and Guidance and all relevant material considerations. In addition regard shall be had to the statutory tests in Regulation 122 of the Community Infrastructure Regulations 2010 and the provisions of Circular 05/2005 on Planning Obligations as appropriate. [LC/01/01/2012/A]
- 6.2 Any abatement or renegotiation of existing Section 106 requirements after the initial decision but before planning permission is issued will have to be robustly justified supported by a Financial Viability Appraisal and the planning application will have to be duly referred back to Planning Committee before any abatement or variations are agreed. Members will have to consider in light of any material changes, including the planning obligations now to be offered, whether permission should still be granted.
- 6.3 Where planning permission has already been granted then any change to the Section 106 agreement will have to be justified and approved by Planning Committee as applications to discharge planning obligations cannot be made by the landowner until 5 years after the grant of permission. Any variations prior to this date have to be with express agreement of the Planning Committee and achieved by way of a Deed of Variation of the existing S106 Agreement in accordance with S106A of the town and Country Planning Act 1990.