

Executive Member Response to the Scrutiny Review into Section 106 Legal Agreements

**Date Recommendations agreed by Overview & Scrutiny Committee:**

Monday 15 June 2015 (circulated 18 June 2015)

**Date responses should be made by:**

Executive responses should be received by Friday 21 August 2015

**Recommendations:**

**Executive Response:**

1. That individual officers responsible for negotiating a Section 106 Agreement are aware of the local needs and priorities of the area where the planning permission is being sought, by in part undertaking consultation with the local Members and that the case officer adequately communicates with other colleagues internally and with the County Council in order that the best provision is negotiated for that area.

Since mid- 2015, statutory changes have been made to the way S106 agreements can be made. These will legally restrict the frequency and scope of S106 obligations in future. S106 is now solely focused on direct deliverable mitigation of a development. Members will be offered a briefing on this in early 2016.

Planning officers will have refresher training to ensure consistency over consultation and continue liaising with County Council to ensure the required mitigation can be delivered.

**Action: Peter Bandy and Paul Pinkney**

<p>2. That although cases are rare, officers investigate ways of avoiding situations where the infrastructure projects that are delivered are not subsequently criticised for being either the wrong provision or in the wrong location.</p> <p><b>Action: Peter Bandy and Paul Pinkney</b></p>	<p>The new focus on direct deliverable mitigation and increased oversight by senior officers should ensure this does not happen in future.</p>
<p>3. That SBC officers approach Hertfordshire County Council to enquire how they make their decisions regarding issues like the siting and provision of sustainable transport to help Members better understand their reasoning.</p> <p><b>Action: Peter Bandy and Paul Pinkney</b></p>	<p>There have been a number of SBC/HCC meetings on S106 mitigation and transport to ensure both sides understand each other's requirements</p>
<p>4. That officers provide Members with confidence that sufficient ongoing revenue funding is being provided to maintain capital infrastructure schemes funded by Section 106 Agreement monies.</p> <p><b>Action: Clare Fletcher</b></p>	<p>In future any required S106 mitigation will need to either be provided in perpetuity by the developer, or if transferred to the Council, the Council must revenue fund. The LPA can no longer require long term revenue funding for capital infrastructure funded by S106.</p>
<p>5. That officers address the issue of the perception that on occasion commitments given by developers at the time planning permission is granted may be withdrawn during the subsequent negotiations.</p> <p><b>Action: Peter Bandy and Paul Pinkney</b></p>	<p>Clearer and more detailed Heads of Terms in the committee reports. Any significant changes would need to come back to Planning Committee.</p>

A copy of these recommendations have been sent to the named officers for a response on behalf of the Executive.