



Buckinghamshire County Council

Environment, Transport and Localities
Select Committee

Section 106: Getting better outcomes and value from developer contributions

Agreed by committee on 14th April 2015.



The Environment, Transport and Localities Select Committee

The Environment, Transport and Localities Select Committee is appointed by Buckinghamshire County Council to carry out the local authority scrutiny functions for all policies and services relating to these areas.

Membership of the Committee

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Timothy Butcher
David Carroll (Vice-Chairman)
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Executive Summary

This was a focused inquiry, the purpose of which was to consider the efficacy of the Council's internal governance and approach to the monitoring and management of Section 106 (s106) agreements.¹ We considered how the Council could improve its approach to s106 to ensure it achieves maximum investment opportunities from the growth and development within the county and ensures that appropriate mitigation measures are delivered on behalf of residents.

It became apparent during early committee discussions that certain control weaknesses existed in the s106 system within the Council (particularly in relation to highways s106). We felt that it was a lamentable mistake to lose the dedicated resource for s106 which has led to a lack of focus, visibility and expertise to effectively manage the s106 process. Whilst welcome improvements are evident in the recent past, we felt that the Council process for the monitoring and management of the s106 system remains in need of further improvement.

The extent of growth and development that the county will experience over the coming years poses a vital opportunity for the Council to ensure that its strategic approach and focus in relation to s106 agreement is as effective as it can be so that it can deliver the best outcomes for Buckinghamshire. We were not convinced that this was the current position and we want to help ensure the Council get the best value from developer contributions.

The recommendations within this report seek to support our key findings and some key strategic areas for improvement. These focus on;

- The development of a centralised system for s106 recording and monitoring for use across the council rather than separate business units doing this on an individual basis.
- A need for clear criteria which allow for appropriate member engagement in the planning process.
- A need to improve the corporate strategic oversight of s106 agreements. Improving visibility and transparency of s106 across the organisation.
- A need for appropriate lines of accountability and the corporate resource and skills to be able to effectively manage the s106 process going forward, particularly given the known and future growth in the County.

¹ The definition of Section 106 (s106) is; "Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as s106 agreements, are a mechanism which make a development proposal acceptable in planning terms, that would not otherwise be acceptable. They are focused on site specific mitigation of the impact of development. S106 agreements are often referred to as 'developer contributions' along with works done under the Highways Act and the Community Infrastructure Levy"

1 Recommendations

- 1. We recommend that there should be a shared council wide approach to monitoring S106 agreements across the Council using a central register database for all agreements (para 1-14).***
- 2. We recommend that all s106 investment should be recorded in the capital programme (where it is appropriate to capitalise), to provide corporate visibility and oversight (via the Asset Strategy Board), of all council investment and enhance the strategic focus in relation to s106 (para 15-21).***
- 3. We recommend that the Cabinet Member sets out clear criteria for how he/she will ensure the Council allows for appropriate local member involvement at the early stages to help positively shape s106 proposals and ensure suitable mitigation measures that meet local needs (para 22-27).***
- 4. We recommend that the Cabinet Member put forward a proposal for how all future s106 highways schemes will be delivered in a timely manner (para 28-35).***
- 5. We recommend that the Cabinet Member for Finance and Resources should put forward a business case for a better resourced s106 team to ensure the value of future s106 agreements are as robust and effective as they can be and issues highlighted throughout this report are addressed (para 36-45).***
- 6. We recommend that there should be a corporate role within HQ; a single senior officer with overall responsibility for the strategic oversight and co-ordination of s106 agreements across the council (para 46-52).***
- 7. We recommend that Cabinet clarify roles of relevant Cabinet Member(s) to ensure there is a strategic cabinet lead with oversight of s106 investment across the Council, along with the relevant Cabinet Member oversight at business unit level (para 53-55).***

2. Inquiry Context

1. The inquiry was commissioned jointly by Environment Transport and Localities (ETL) and the Finance Performance and Resources (FPR) Select Committees. It was agreed that ETL would lead on the inquiry and its follow up and that the Chairman of FPR would sit on the inquiry group.
2. We received regular updates and held exploratory discussions with officers between 6th November 2013 and 18th November 2014.² After building our knowledge and understanding of the s106 process through earlier committee sessions,³ the committee agreed⁴ to hold a focussed inquiry evidence session on the 23rd February 2015 which concentrated on a few of the key strategic areas of concern arising from committee updates.⁵ The purpose was for members to examine these further and formally report and record our findings to Cabinet.
3. The inquiry group comprised of the following Members: Warren Whyte (Chairman); Bill Bendyshe-Brown; Bill Chapple; Steven Lambert; Brian Roberts (Chairman FPR). Members heard evidence from internal officers, John Rippon, Head of Growth and Development, Niall Cater, Consultant developing s106 recording processes, Matthew Sims and Simon Dando from Ringway Jacobs, and Karen Howe, Manager of S106, Environment and Economy Oxfordshire County Council. Following the evidence session discussions were held with Officers within Education (24th February), and Finance (4th March) to clarify areas highlighted within the evidence session.
4. We were made aware, as we neared the end of the evidence gathering, that Internal Audit has a s106 review in their work programme. The review is scheduled to take place during April 2015. To avoid duplication, we report our findings which highlight a number of gaps within the monitoring and governance process within the Council. We hope that our observations will help to inform the scope of the Internal Audit work and that they are able to put our observations into context of the different elements of s106 process adding more detailed evidence base to support further more specific improvements for the Council.

² Schedule of meetings at appendix 1.

³ The background information on the s106 process and the Council's role can be found in the information paper received by members from the service area in Appendix 2.

⁴ At committee on 18th November 2014.

⁵ See appendix for refine scope for focussed evidence session.

3. Current Approach

Recording, Monitoring and Management

1. We heard that up until June 2012 the Council employed a Section 106 Monitoring Officer who worked with services, legal and finance as well as planning policy and development control to coordinate s106 negotiations across the Council.
2. Since this time, the impact of the removal of this post was apparent to us. We heard from both the Highways Development Team (within Place) and Education (under CYP), to understand how they monitor and manage s106 agreements. We were told that, negotiations were always done by the relevant service areas as they currently are. However, the previous post holder provided a monitoring role and strategic lead on major developments which meant there was strategic coordination across the service areas. The removal of the post has resulted in s106 agreements not being monitored and managed holistically, but rather on a service by service basis.
3. We were told that Education dealt with the risk posed by the removal of the s106 officer post by introducing a monitoring post within School Commissioning which has meant they have continued to monitor and report S106 as part of the capital programme evidencing where spend has taken place.⁶ They (CYP) monitor the commencement of developments and trigger points for payment from developers through a well maintained and up to date database of all s106 agreements and effective liaison with districts to get information on progress of developments. We were told that had they not done this, they would have faced major issues when the post was lost (as highlighted when we heard evidence from highways, see below).
4. In contrast, when we first spoke to highways over a year ago we were dismayed by the lack of records and monitoring they had. In our evidence session with highways, we heard that the commencement of developments or other triggers for payment has not been monitored robustly due to lack of resource. This resulted in the service area having to hire a consultant over the past year to identify all the agreements and start a recording/management database similar to the one education use. We first heard about this when we were reassured in a meeting between the ETL Chairman and FPR Chairman in May 2014 that steps were being taken to collate an accurate picture of all highways s106 agreements. We therefore agreed that the committee would allow the service area time to make these welcomed improvements and report back to the committee.

⁶ CYP put in permanent resource to monitor and chase payments. It is also part of the job description for the School Commissioning Strategy manager and the School Place Planning Commissioning Partner

5. In our evidence session on the 23rd Feb we heard that Highways have come a long way in the collating and recording of s106 agreements. We were shown the spreadsheet called the '**Master Deed Agreement List**' (MDAL) containing all Section 106, 38 and 278 agreements has been established. Planning Team 2 of Legal & Democratic Services provides monthly updates of any new agreements entered into and these are added to the MDAL. We were told how each agreement is analysed and an Obligations Monitoring Form (OMF) completed. The information held on these forms is contribution specific and lists the amounts due together with details of any conditions attached to those sums. This includes, milestones/triggers, interest and indexation adjustments and timescales. A central index of agreements has also been developed. This is held in Excel spreadsheet format and affords opportunity to interrogate the data using filters on the date, title, legal reference, and both planning and appeal reference numbers. To-date over 180 S106 agreements have been sourced and stored on the system and 38 OMF records produced.
6. We considered with officers the extent to which the highways now have a full and accurate picture of all agreements and what further work needed doing. We were told that the longer term aim is to extend this central index to allow access to the recording of progress reports, invoicing and other relevant information. Investigation into the use of existing systems has been carried out.
7. However we were also warned that going forward; whilst these databases do provide a means of recording data they do not resolve the ongoing human interaction with assessment and monitoring of the agreements. Thus there is a continuing and vital resource implication to ensure this work is not lost and is not only utilised but is expanded and enhanced in a sustainable way going forward.
8. We felt that without enhanced resource and improvements highways are at risk of essentially being reliant on developers to submit s106 payments on time, or to rely on information from districts. In addition, we heard that they have had long delays on section 106 project delivery which runs the risk of the Council having to repay monies to developers where schemes are not delivered within the timeframes (see later section).
9. Having heard the evidence, we felt that, education are in far better position than highways and highways have come a long way in the past year on the monitoring of s106, however the monitoring processes across the Council as a whole are still not being undertaken in an efficient and sustainable way. It is difficult for members to have visibility and transparency of all the agreements and funds. They are currently unable to respond to residents questions about the final agreement and trigger points and need better access to information that should be available.

10. We were told by the finance team that even when the Council did have a s106 officer that they never had full sight of all the monies and schemes in relation to highways section 106, and this needs to change going forward. It was their view that a centralised management, monitoring and recording system would be far more effective and provides the strategic oversight mentioned in the section above.
11. The risks to the Council if the internal processes are not enhanced are that it risks having to repay s106 money that is sat unspent in reserves due to deadlines for project delivery not being met, it misses payments that are due as a result of ineffective monitoring of trigger points, and it risks reputational damage as developers will see it as a light touch and possibly start looking at other agreements looking to make claims.
12. We received evidence from Oxfordshire County Council about their monitoring processes in order to learn from an authority that had a coordinated approach. We learnt that Oxfordshire have three joint databases which are managed and monitored by a central team and record all the information on behalf of the Council, so that as an authority they have clear strategic oversight. The combined effect of the databases operated the central team enables the county council to follow a contribution from an agreement through to a specific scheme, or to track backwards from a scheme to the relevant agreement providing a clear audit trail.⁷
13. We were impressed with the integrated and coordinated process Oxfordshire County Council has instituted, and clearly the investment has resulted in significant infrastructure gains for the Count. It leads us to conclude that our own processes within BCC, albeit significantly better than the last couple of years, are still not as robust or proactive as they could and should be.
14. We felt that in order to build upon the recent improvements and to set the foundation for the council to move to a more robust and coordinated approach the council firstly needs a shared council wide approach to the monitoring and recording of s106 agreements across the council, which both Business units and members can access in order to be able to respond to resident enquiries. Therefore;

Recommendation 1: We recommend that there should be a shared council wide approach to monitoring S106 agreements across the Council using a central register database for all agreements.

⁷ Detail of the Oxfordshire databases can be found in the information paper provided by Oxfordshire County Council at Appendix 3.

4. Oversight, Visibility and Transparency

Corporate financial oversight

15. Currently all educational s106 monies under CYP are recorded within the capital programme, providing a greater corporate level oversight and visibility of monies received and due. However, there is not the same level of corporate oversight and visibility for highways funding we were told.⁸ It is only the major infrastructure projects in the Leader Portfolio which have significant amounts of S106 and ALUT (Aylesbury Land Use and Transportation) payments which have been shown in the 2015+ MTFP.
16. Other highways s106 funding is received and recorded on a site by site basis, thus not providing a clear overview of planned improvements. Unlike education s106, highways doesn't have the potential phased approach to how s106 may be delivered making it more difficult to record. We were told by finance officers⁹ that in the past they have tried to include all s106 highways schemes within the capital programme in order to improve the strategic visibility and transparency. However this proved difficult to do for all of highways s106 monies as it is often for smaller specific schemes with unknown amounts. We also suspect that some of this may be down to a lack of comprehensive recording and monitoring records within the service area in the past.
17. In speaking to the finance director¹⁰, it was his view that there is no reason why all s106 for highways couldn't or shouldn't be included within the capital programme. However, he pointed out that s106 monies could actually be revenue (or de-minimus for capital purposes). Although all of education contributions are generally capitalised, highways amounts could be used for small schemes that would count as revenue.
18. We felt that although it was clear that capital monitoring is more robust now than it used to be, there are still a large number of smaller highways projects that are not included. Therefore, despite the improvements there are still a large number of more specific elements that are not fully transparent and we felt this should not be the case.
19. By including more of the highways s106 in the capital programme it may provide opportunities to highlight where some funds may be able to be used for existing schemes if they are flexible and it is appropriate to do so under the terms of the agreement. We felt that with better oversight, there may be better ways of adding value to s106 works by incorporating BCC funded works in the same area (to capitalise on road closures for example). This would also help programming of maintenance works prior to actual development. It would also improve visibility around how the funding aligns with business unit and strategic plans.

⁸ Finance Director, meeting with Scrutiny officer on behalf of the Chairman – 4th March 2015.

⁹ Finance officers, meeting held with scrutiny officer on behalf of Chairman on 4th March 2015.

¹⁰ See 4 above.

20. Thus, whilst we appreciate that highways s106 monies may not be as easily forecast as education monies, we felt that there is an opportunity for greater corporate oversight. S106 expiry dates and triggers need to be monitored corporately, which we felt could be done through the future Asset Strategy Board.

21. Therefore in order to provide visibility and transparency to corporate funding, we felt that all section 106 funding should be recorded in the capital programme (this should also include other possible areas such as libraries or social care facilities) and not just education and the major infrastructure projects in the Leader Portfolio. We felt that this would provide more strategic and member oversight which could help improve the strategic focus and planning in relation to s106 and help avoid delivery slippage (see section below on commissioning and delivery). Therefore,

Recommendation 2: We recommend that all s106 investment should be recorded in the capital programme (where it is appropriate to capitalise), to provide corporate visibility and oversight (via the Asset Strategy Board), of all council investment and enhance the strategic focus in relation to s106.

Member Engagement and Local Intelligence

22. Members were concerned about the lack of member engagement and opportunities to feed local intelligence into the planning process, particularly in the early stages.

23. We heard how, typically the Highways Development Management team deals with over 2500 district planning consultation each year. They have a statutory 21 day timeframe in which to respond to pre planning enquiries and planning application, this along with the lack of resource capacity places a constraint on the amount of meaningful engagement which can take place. Therefore the team currently relies on members contacting them directly regarding issues of interest or particular concern and members are not being regularly informed of the planning application within their area to be able to know when to contact the team. We were told that currently members are sent copies of the District Planning Authority weekly list of planning applications, informing them of development proposals. However, members highlighted that is no longer happening.

24. A recent example of a s106 agreement in Buckingham highlighted the need for local intelligence within all areas to feed into the s106 process. The Chairman told the committee how the example in question included some desirable mitigation works to enable a contentious development. However, the agreement was badly worded and without local knowledge which resulted in the delivered transport schemes having less impact than expected and missing out on small but vital links to the surrounding path network. We heard how taking on board town council advice and engaging with the

local member would have avoided this, and being provided with an opportunity to discuss the s106 heads of terms would have helped. We also heard how in a more recent proposal this has happened, and has positively helped shape the s106 proposal, emphasising the value of local intelligence within the process in order to ensure the appropriate mitigation measures to meet local needs.

25. We considered, with officers what the barriers and opportunities might be to better feed local intelligence into the process. As mentioned time constraints and lack of resource are major barriers. We also heard how the team are often not made aware of perceived issues in local areas, and often work is undertaken in parish/town councils that is not communicated to the team (e.g. accessibility studies). This was highlighted as an area for improvement working with Locality Managers to establish more effective channels of communication and flow of local information that can be used to shape and influence s106 negotiations with developers.
26. We felt that going forward the Council needs to identify and have a good understanding of local needs for different types of infrastructure through effective engagement with community members and other departments, partners and agencies. Currently, there is no clear process for a two way exchange of information around what work is in the pipeline and getting local intelligence which may help mitigation measures.
27. We recognise that there is time and capacity issues here but this needs to be resolved to ensure that appropriate mitigation measures are sought through s106. We felt that there needs to be a process to ensure better local insight and influence in terms of future requirements of s106 funding and early intervention in the planning process, in order to ensure we ask for the right mitigation measures and understand what communities want. Therefore;

Recommendation 3: We recommend that the Cabinet Member sets out clear criteria for how they will ensure they allow for appropriate local member involvement at the early stages to help positively shape s106 proposals and ensure suitable mitigation measures that meet local needs.

5. Delivery and Commissioning (within Highways)

28. We were particularly concerned around the delivery and commissioning of highways s106 schemes (this was not highlighted as an issue for education). The current position, we were told is that within highways the Council is functioning in a reactive way, playing catch up. They are not yet in a proactive position where they are on the front foot (for example, issuing invoices to developers), but rather they are reliant on developers coming forward.
29. We were told about the potential risk to the Council of having to repay monies back to developers where trigger points have not been effectively managed and schemes have not been delivered on time. Within highways, we heard that there is currently a backlog of schemes which are undelivered and timescales/deadlines are almost being reached, and thus the risk of having to repay monies is increasing. Members were concerned about this risk and raised their concerns early in the process of considering s106 last year.
30. In response to Members concerns about the potential risk of the Council having to repay aged s106 contributions, we were informed that a review is being undertaken jointly between the Highways service, Jacobs and Transport for Buckinghamshire, to ensure that schemes are delivered in a timely and coordinated fashion and in line with the Medium Term Plan and wider Capital Investment Programme.
31. We were told that it is proposed that each year as part of the MTP process future year's s106 schemes will be selected from the accumulated pool of contributions and subject to Cabinet Member approval, submitted to Business Investment Group (BIG) for the funds to be released from the S106 reserve.
32. We considered an outline proposal which Growth and Strategy are currently working with Ringway Jacobs and TfB to develop systems that enable rolling programme of S106 funded schemes to be delivered through the TfB contract framework on an annual basis, taking a shared risk approach, and packaging up schemes for delivery. Since design costs are typically disproportionate on lower value S106 schemes, by commissioning the schemes as a programme this will enable better economies of scale and spread design costs across small to large value schemes we heard.
33. Members were concerned about the delay and risk of non-delivery. They felt that there was a lack efficient process between the Council and TfB; For example, the council are not commissioning TfB to deliver schemes in a timely manner and TfB are not responding to the order in a timely manner.
34. The committee wish to continue to monitor and review the process for delivery and commissioning of highways schemes to see if it improves matters and assure them that the annual packaging of projects is the appropriate way going forward. We felt

that, it may enable the council to catch up on the back log but were unclear whether or not it is the best solution for future schemes.

35. We question whether there is a more responsive way of delivery s106 without having to wait for the annual work programme. It is hoped that the proposal improves matters going forward. However members felt that the Cabinet Member and service area need to ensure that there is a clear a sustainable approach going forward to *ensure that* agreements that are within 7 years (time limit is 10 years) are picked up, and schemes are delivered in a timely manner so as to not risk the Council having to pay back monies to developers.

Recommendation 4: We recommend that the Cabinet Member put forward a proposal for how all future s106 highways schemes will be delivered in a timely manner.

6. Strategic Approach Going Forward

Capacity and skills

36. Resources over recent years have been targeted at priority service areas in the face of competing demands and the need for budgetary constraints. However, we feel that this may be short sighted and the Council may be missing out on opportunities to maximise investment from the current and future expected growth in the county.
37. Whilst education suggests that their resource is sufficient, within highways, the current resource (temporary consultant) is not sustainable. The new role within the Transport, Economy and Environment business unit is a step in the right direction but we question whether this will be enough to truly enhance our approach for the long term. In the evidence we heard, the resource of a consultant part time has not been sufficient to catch up and manage current backlog, not to mention likely development to come. It was clear to us that despite the huge progress made from where highways were, the consultant clearly has some way to go just to understand the existing situation, never mind managing new ones.
38. To understand how other neighbouring local authorities manage the s106 process, we received evidence from Oxford County Council, Transport and Economy service for a comparison. We were told that they have one central team that act as a strategic hub for the whole Council; an Infrastructure Funding Team which consists of a total of 12 staff, split between two teams; the s106 Negotiations team (6 people), and the Planning Obligations Team (6 people). This team sits within the Environment and Economy Directorate and they are the strategic lead for the council for the whole s106 process.

39. The Planning Obligations Team monitors each and every one of these Agreements and all of the Obligations from the completion of the Agreement, the start of the development through to the end of a development and often beyond, in order to ensure complete transparency and financial probity. The total annual value of these Agreements over the last 6 financial years has varied from £9.5 million in 2011 at the height of the recession, to £59 million in 2008/09 (see appendix 5 for figures).
40. We were impressed with the strategic, professionally coordinated and integrated operation Oxford have in comparison to that of our Council. It was clear that their corporate and strategic processes enable them to effectively manage the s106 process and as a result they have significant investment coming into the county, with the costs of their team being far outweighed by the amount of investment coming into the council through s106. For example, staff costs for the team are approx. in the region of £350-400k a year, whilst the lowest investment in one year was £12m, with other years being significantly higher i.e. the previous two years have been £50m and £46m (see chart in appendix 4).¹¹
41. We were impressed by the intelligent management, and professional team within Oxfordshire County Council, as mentioned above. It highlighted that as a Council they are positioning themselves in a proactive position, and have the required resource and management structures and processes to effectively manage the s106 process and ensure appropriate mitigation measures on behalf of the Council and residents.
42. We felt that our Council needs to develop a far more coordinated approach as highlighted throughout this report. As mentioned, the county is experiencing and will continue to experience significant growth. Without adequate resource the Council will miss out on significant investment and needs to start considering how it can better manage investment for economic development and unlock investment. We felt that it may be appropriate for the Transport, Economy and Environment Business unit, Growth and Strategy team to lead this function strategically but with relevant departments such as education monitoring their own as well, however it would need to be sufficiently resourced to do this effectively.
43. We welcome the reinstatement of a s106 officer post within this team, however, given the current backlog and given the known growth and future growth, we felt the Council clearly doesn't have the capacity to deal with s106 in a robust manner, and question whether a single s106 officer resource will be enough going forward.
44. The Council needs to ensure adequate resources are allocated to planning services to create the necessary capacity to secure community benefits in line with corporate priorities. They need to ensure they have good robust s106 agreements and then enough resource to monitor, manage and deliver them. The council needs to provide

¹¹ In drafting we were made aware that OCC recently lost a high court case that tested their ability to secure fees for monitoring s106 agreements – it has set a new legal precedent nationally.

support to services currently under pressure to allow them to identify community infrastructure improvements contribute to identify needs in a timely manner.

45. It was our view that the Council should review whether there is value in having a larger resource given the Oxfordshire approach we heard about. We felt there would be value in comparing the Council's current approach to that of Oxfordshire in order to ensure it realises the potential investment of the large scale future growth in the county and ensure the correct infrastructure for Buckinghamshire residents. Therefore;

Recommendation 5: We recommend that the Cabinet Member should put forward a business case for a better resourced s106 team to ensure the value of future s106 agreements are as robust and effective as they can be and issues highlighted throughout this report are addressed.

Strategic Oversight

46. Councils who have an effective approach to the use of planning obligations have a good backing from the corporate centre.¹² As a Council, we need to think about how we better integrate section 106 policies and practice into our corporate processes and objectives. We felt that many of the issues experienced are a result of a lack of corporate commitment, oversight and resource.
47. We heard how all service areas felt a strategic oversight role is fundamental and key to the Council successfully managing s106 agreements and progress of developments, particularly trigger points and invoicing.
48. As mentioned above we heard about the Oxfordshire approach to s106, and the strategic professional and coordinated operation of the central team which acts as the strategic hub on behalf of the council. We mention in the section above that the TEE business unit could perform this function in the future (if appropriately resourced).
49. It was clear that a strategic oversight is essential. Our Council currently has no strategic lead. We felt that the loss of the post was clearly an error and s106 has suffered due to the lack of strategic oversight, most notably within the highways department. Improving the corporate approach is essential to ensure the appropriate infrastructure for the huge growth the Council knows is coming.
50. Oxfordshire County Council represent a corporate approach and we felt as such had a much more visible and transparent approach to s106 that enabled the Council as a whole to utilise s106 investment in the most effective ways possible to the benefit of local residents.

¹² Audit Commission: Corporate Awareness Checklist; Improving performance on Section 106 agreements.
<http://archive.audit-commission.gov.uk/auditcommission/subwebs/publications/studies/studyPDF/3630.pdf>

51. We felt that if our Council had a more coordinated overview strategically it can better find ways to resolve how to negotiate what is the best position for the authority and ways of getting the best infrastructure for the Council as a whole. As mentioned above, it is positive step in the right direction that a new s106 post has been identified to sit within the Transport Economy and Environment Business Unit, but there needs to be far greater corporate visibility. With the currently envisaged growth in the county, now is a once in a generation opportunity to improve infrastructure provision via development.

52. It was apparent to us that no senior manager has overall responsibility for the corporate co-ordination and management of s106 at the Council and therefore the system lacks council-wide co-ordination, strategic control and direction. Having an identified responsible person that provides strategic overview of the s106 process, will enable the council to adopt a more corporate approach to the use of s106 monies and assist the council in achieving its strategic aims. Therefore;

Recommendation 6: We recommend that there should be a corporate role within HQ; a single senior officer with overall responsibility for the strategic oversight and co-ordination of s106 agreements across the council.

Cabinet Member Accountability

53. It was apparent to us throughout the discussions that took place over the past year that not only is there no strategic lead officer for s106 corporately, is also unclear who has or should have overall Cabinet Member responsibility for s106 at a corporate level. For example, responsibility could easily fall with the Leader or Cabinet Members for Finance, Highways, Education and Planning.

54. It was evident to us, that the role of developer contributions is clearly critical to providing suitable infrastructure for developments and mitigating the impact of such developments. As mentioned above, whether or not developer contributions have enough visibility given the current and future development in the county was of concern to members. It was not clear to us, how the issue of growth is coordinated across the council and whether or not the big issues are getting enough visibility in a joined up manner.

55. We believe that the recommendations made above will contribute to delivering improvements in the Council's overall approach to s106. However, we felt that for larger schemes that have critical infrastructure requirements, this is particularly important. We felt that there should be a clear political lead as well as a technical

officer lead to demonstrate to developers that as a Council we take infrastructure seriously. Therefore we recommend that;

Recommendation 7: We recommend that Cabinet clarify roles of relevant Cabinet Member(s) to ensure there is a strategic cabinet lead with oversight of s106 investment across the Council, along with the relevant Cabinet Member oversight at business unit level.

Appendix 1
Schedule of Meetings and Scope

Date	Meeting Type	Purpose
6 th November 2013	Select Committee	1st report to committee on s106.
12th May 2104	Chairman 6 month follow up meeting with officers	Exploratory meeting to discuss initial areas of concern – identified areas for improvement and agreed to provide service area with 6 months to update on progress.
17 th June 2014	Select Committee	Update to committee on developments and progress towards recommendation areas agreed in committee on 6 th November 2013.
18 th November 2014	Select committee	Update on progress, key issues highlighted and scope agreed for further work. Committee agreed to do focussed inquiry to examine the issues and report findings formally to Cabinet.
23 rd February 2015	Inquiry Evidence session	Members held a focussed inquiry evidence session to examine in more detail the areas of weakness highlighted with a view to be able to report findings and recommendations to Cabinet.
24 th February 2014	Evidence gathering	Scrutiny Policy Officer met with Education officers to follow up lines of inquiry in relation to education on behalf of the committee.
4 th March 2014	Evidence gathering	Scrutiny Policy Officer met with

		Finance officers to follow up lines of inquiry on behalf of the committee.
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Key areas for further examination (suggested inquiry terms of reference as agreed by committee on 18th November 2014)

1. During initial exploratory discussions between the Chairmen and officers on 21st May there were a number of key areas where the Chairmen felt improvements to the Council's current approach and process in relation to s106 negotiations needed to be made.
2. In order to refine the lines of inquiry within the scope the committee are asked to consider the below areas as the key terms of reference for further inquiry work, agreeing all or some of them for the committee inquiry. The key areas highlighted within the initial discussions fell under the following categories:

1) Governance: Internal Policy and Process:

- How robust is the process and governance structure for the creation and monitoring of S106 agreements including financial transactions and reporting (this involves education, legal services, finance and the Highways DM)

2) Commissioning and Delivery of S106 schemes

- How does the Council develop an effective programme and manage delivery? Historic S106 contributions are blocked up in the system and funds are at risk of having to be repaid.
- What are the best ways to achieve the mitigation through S106 negotiations with developers in order to achieve the best outcomes for local communities? Particularly around early intervention at the planning stages to reduce need for mitigation

3) Councillors and local Influence in s106 agreements/contributions.

- To what extent does the Council ensure that it is asking for the right sorts of improvements that meet local aspirations? How do we know what local communities want?
- There is a need for better local insight and influence in terms of future requirements of s106 funding and early intervention in the planning process.
- How can intelligence gathered by LAFs for example, be utilised when officers are considering schemes.

4) Community Infrastructure Levy (CIL) and partnership working:

- The role of the community CIL process needs to be considered in more detail as the Districts are the leaders in this process. What is the relationship between CIL and S106 and role/impact of the county council?
- Since BCC are not a CIL collecting authority – how can we best ensure that we are able to continue to drive the right transport outcomes and secure funding for services and infrastructure if the District Planning Authorities hold the purse strings?
- To what extent is there a need for an improved partnership approach between the County Council and District Councils to reconcile this? (The County Council has to bid to compete with others in this process and as such has a limited degree of influence).
- How are local needs and aspirations captured within this process?

Appendix 2

INFORMATION PAPER FROM HIGHWAYS (BCC)

ETL Scrutiny Committee Inquiry 23 February 2015

Subject: Section 106

Author: John Rippon, Head of Growth and Development Strategy

Date: 17 February 2015

Summary

The purpose of this paper is to provide relevant background information, progress update and summary recommendations for discussion, to assist the Environment Transport and Localities (ETL) Select Committee with their inquiry into the County Council's procedures and systems for dealing with Section 106 matters.

This paper has been prepared to assist the ETL Select Committee with the inquiry session scheduled for 23rd February and is supported with further detailed evidence contained in the appendices.

Reports and updates have been have previously been reported to ETL Scrutiny as follows:

ETL Select Committee, 6th November 2013 – Report
ETL Select Committee, 17th June 2014 – Update
ETL Select Committee 18th November 2014 - Update

Background

Section 106 agreements are legally binding private agreements made between planning authorities and developers. They are termed **planning obligations** under the 1990 Town & Country Planning Act. They are dealt with under section 106 of the Act, hence their name.

They are used to make development acceptable in planning terms. The land itself, rather than the person or organisation that develops the land, is bound by a Section 106 Agreement – so this is something any future owners will need to take into account. The obligations are registered as a local land charge against the piece of land.

Planning obligations enable a council to secure financial contributions to services, infrastructure and amenities in order to support and facilitate a proposed development.

The Government's policy on the use of planning obligations is set out in Circular 05/05. Planning authorities must take this guidance into account in their decisions on planning applications and must have good reasons for departing from it.

Planning obligations are used for three purposes:

- **Prescribe** the nature of development (for example, requiring a given portion of housing is affordable),
- **Compensate** for loss or damage created by a development (for example, loss of open space), or
- **Mitigate** a development's impact (for example, through increased public transport provision).

Planning obligations must be directly relevant to the proposed development.

In April 2010 a number of measures within the Community Infrastructure Levy Regulations came into force. These reforms restricted the use of planning obligations and clarified the relationship between planning obligations and the Community Infrastructure Levy - the levy is a new local charge that all local authorities in England and Wales can choose to charge on new developments in their area to fund infrastructure.

The County Council will not be a charging authority under the new scheme but may be required to collect the payments on behalf of any charging authority.

Close collaboration is required between County and District Councils in order to ensure that the potential for Planning Obligations is utilised effectively and the identification of other funding streams.

There are **three key reforms** that scale back the use of planning obligations:

1. **Planning obligations must meet three new statutory tests** from 6 April 2010.
2. **Planning obligations cannot be used to double charge developers** for infrastructure. Once an authority has introduced the levy in its local area, it must not use obligations to fund infrastructure they intend to fund via the levy.
3. **Planning obligations will no longer be the basis for a tariff.** Once a local authority introduces the levy in their area, or if sooner after April 2014, it can no longer pool more than five contributions for infrastructure capable of being funded by the levy.

However, planning obligations will continue to play an important role in making individual developments acceptable. Affordable housing will continue to be delivered through planning obligations rather than the levy. Local authorities can also continue to pool contributions for measures that cannot be funded through the levy.

Key Areas of ETL Inquiry

Following report to ETL Select Committee on 13 November 2013, the service as undertaken a review of the Section 106 procedures and this work has evolved into four main themes as reported to ETL on 18th November 2014.

This has been necessary due to the scope and complexity of the subject matter and to focus on a range of different issues and improvements and further recommendations for each theme.

The key lines of inquiry focus on the following four themes:.

- 1. Governance - to ensure robust systems are in place to effectively manage the creation and monitoring of S106 agreements, including payments and budget management and reporting.**
- 2. Member and Local Community Engagement – to ensure that Members and Local Communities have a genuine influence in securing the best outcomes to mitigate the impact of development.**
- 3. Commissioning and Delivery - to ensure that schemes are effectively delivered and S106 funds are spent in a timely fashion.**
- 4. Community Infrastructure Levy (CIL) – to improve understanding the County Council’s role in relation to CIL and how best to influence the process to secure future funding for transport and education.**

Working with ETL Scrutiny Committee, the service area is involved in an on going review and continuing to develop procedures and systems to improve the way Section 106 is managed within Buckinghamshire County Council.

Summary of progress, further information and suggested recommendations for each of the four themes are summarised as follows.

This information is supported by further detailed information and evidence contained in the appendices.

1. Governance

Recording and Monitoring of Agreements:

In accordance with the agreed ‘next steps’ set by the ETL select committee on 6th November 2013, the following measures have been implemented with the intended aim of establishing a robust system of recording and monitoring S106 agreements.

To address the resourcing issue, the service employs the A S106 Co-ordinator has been appointed on a 2 day per week contract with the following remit:

- To develop procedures for collating and analysis of existing and new agreements.

- The formation of a central database for recording details of each agreement permitting easy recording, interrogation and retrieval of information and agreements.
- Establishing effective monitoring procedures to identify when triggers/milestones are reached.
- Review and develop invoicing and reporting procedures that comply and assist audit requirements and FOI requests.

These will be carried out in consultation with other interested parties such as education, legal services, finance and highways. This should also look at how links between County and District Authorities can be better utilised to assist with the monitoring of developments.

Progress to-date:

A spreadsheet called the '**Master Deed Agreement List**' (MDAL) containing all Section 106, 38 and 278 agreements has been established. Planning Team 2 of Legal & Democratic Services provides monthly updates of any new agreements entered into and these are added to the MDAL.

Following discussion with Finance and Commercial Services the MDAL, together with copies of all agreements, is kept within a centrally shared folder. This affords easy access for all interested parties and reduces duplication of information.

Each agreement is analysed and an Obligations Monitoring Form (OMF) completed. The information held on these forms is contribution specific and lists the amounts due together with details of any conditions attached to those sums. This includes, milestones/triggers, interest and indexation adjustments and timescales.

A central index of agreements has also been developed. This is held in Excel spreadsheet format and affords opportunity to interrogate the data using filters on the date, title, legal reference, and both planning and appeal reference numbers. To-date over 180 S106 agreements have been sourced and stored on the system and 38 OMF records produced

The longer term aim is to extend this central index to allow access to the recording of progress reports, invoicing and other relevant information.

Investigation into the use of existing systems has been carried out. Whilst these do provide a means of recording data they do not resolve the on going human interaction with assessment and monitoring of the agreements.

Refer to appendices for further information.

2. Member & Local Community Engagement

Recognised as an area for improvement to ensure that development of transport policy, strategy and infrastructure, and regulatory Highways Development Management functions are cognisant of Members views and local aspirations, to ensure that responses to planning applications and Section 106 obligations reflect local needs and demands.

This area of work is continuing to evolve more broadly through emerging District Local Plans, early engagement with Planning Authorities around major development areas and working with the Local Enterprise Partnership in supporting delivery of the Strategic Economic Plan.

The service is exploring a range of opportunities where there may be scope for higher levels of Member and local community engagement, either directly through liaison with BCC Service areas or indirectly through wider stakeholder engagement, primarily being led by the District Planning Authorities.

Opportunities are summarised below.

- **Highways Development Management** - early conversation with local Members and developing more effective communication channels around the County's statutory Highways Development Management function and responses to District planning applications.
- **Local Area Forum** – Working with Localities Team to establish '**Community Interest Lists**', which are developed and owned by respective Local Area Forums. This will provide useful local intelligence to inform Policy, Strategy and Statutory Highways Development Management functions.
- **Neighbourhood Plans** – Buckinghamshire County Council has adopted a Memorandum of Understanding, which sets out the Council's approach in responding to Neighbourhood Plans. Input by BCC to assist with local infrastructure needs. (Appendix 7)
- **District Council engagement** – emphasis of the NPPF for developers to consult local communities, which provides increasing opportunity for local communities and interested parties to input to shaping development and associated infrastructure – working with developers through District Planning Authorities, on specific sites and development of Local Plans – for example the work in Wycombe on reserve sites.
- **Local Enterprise Partnerships** – engaging local business community. Developing more effective working relationship with LEP's and local businesses to identify transport issues and needs to support jobs and economic growth. This also provides access to additional funding in addition to S106 developer contributions. Match funding from developers supports stronger business case for future bids for government and private sector investment. Local Growth Deal.

Local Member Engagement:

Section 106 for highway and transportation schemes is negotiated by Highways Development Management Team. Financial contributions are sought as well as works in

kind (with the developer carrying out works under Section 278 Agreement). Whilst it is our preference for works to be delivered by the developer, in many circumstances it is not reasonable for the developer to fund the total costs of a scheme.

Section 106 is controlled by regulations contained in the National Planning Policy Framework and Community Infrastructure Levy. The principle tests are as follows:

- 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.

Often the Highways Development Management team are asked by developers, the Local Planning Authority and solicitors to justify how contributions being sought meet these tests. The Highways Development Management team may also be required to defend any requests for Section 106 obligations at planning appeal or public inquiry to the planning inspectorate. If the Planning Inspectorate deems the requests of the County Council to be unreasonable, the S106 obligation may be removed and the County Council could be liable for costs.

Ultimately, the mitigation package is determined by the developers Transport Assessment, which reviews the impact of the development on the highway network and highlights deficiencies in infrastructure. Section 106 obligations are determined through liaison with a variety of departments in the County Council and Transport for Buckinghamshire.

Section 106 for Education is negotiated separately by the Education Service, however Highways and Education services will liaise on major developments to minimise any potential conflict of interest and resolve competing demands.

County Council Members are sent copies of the District Planning Authority's weekly list of planning applications, informing them of development proposals.

The Highways Development Management Team does not currently have sufficient capacity to consult every Member on each individual planning application received in their retrospective areas specifically. Typically the Highways DM service deals with over 2500 district planning consultations each year, ranging from small scale development (less than ten dwellings) to major development sites.

The Highways DM service currently relies on County Council Members contacting the team directly regarding issues of interest or particular concern. Officers are available to discuss planning applications and mitigation proposals with Members. For example, Officers have established constructive dialogue with local Members in relation to major development plans in Buckingham.

On sensitive sites and major applications, officers email consultation responses to the relevant County Councillors for information to ensure that they are fully briefed.

It should be noted that Highways Development Management have a statutory 21 day time-frame in which to respond to pre-planning enquiries and planning applications (although this is often extended for major applications). This is a constraint on the amount of meaningful engagement which can take place.

Local Area Forums:

Highways Development Management is often not made aware of perceived issues in local areas (unless a member actively engages with the team). Work is also undertaken by parish/town councils, which does not get cascaded or communicated to the team (e.g. accessibility studies). This is an area for improvement working with Localities Managers to establish more effective channels of communication and flow of local information that can be used to shape and influence S106 negotiations with developers.

From a Highways Development Management perspective it would be useful to have a 'wish list' for each local area, which officers can draw on to inform Section 106 negotiations (taking into account the identified impact of the development set out in the Transport Assessment and the tests outlined in the CIL circular and the NPPF). The list would need to be developed, owned and updated by each LAF and made readily available as a source of information.

It is understood that many LAF's already have lists of schemes which are used to apply for delegated budget funding annually through TfB.

District Council Liaison Groups:

Forging closer working relationships with District Planning Authorities enables the County to investigate impact of development at an early stage and undertake studies to develop options for mitigation and associate framework of funding for infrastructure improvements.

Increasingly this work is being undertaken in partnership with the Local Enterprise Partnerships as a potential means to access additional government grant such as Local Growth Funds.

Wycombe District Council has recently set up liaison groups for each of the forthcoming reserved sites in advance of their Local Plan. These groups include both County and District Members, resident associations and other interested parties. The Liaison groups are being engaged at an early stage (prior to any pre-application proposals), to identify local issues and find ways to address these through the planning framework.

This has many benefits in terms of effective community engagement, ensuring that local issues are understood and building relationships and trust. This does however require officers to attend four meetings each month. This puts significant pressure on already stretched resources; however is another example of how local communities can be engaged in the application and Section 106 process.

Points for Discussion:

- How can we capture local aspirations for improvements, taking into account resourcing and time constraints?
- Could the LAF's take ownership of a 'wish list' of improvements, which is updated on a regular basis in order to capture local aspirations? How will this be communicated to Policy, Strategy and Highways Development Management? Support of Localities Managers?
- When are liaison groups appropriate and how will this be resourced, who is best placed to lead, District or County?
- There is a need for better local insight and influence in terms of future requirements of S106 funding and early intervention in the planning process.

3. Commissioning & Delivery of S106 Schemes

In response to Members concerns about the potential risk of Buckinghamshire County Council having to repay aged S106 contributions, a review is being undertaken jointly between the service, Jacobs and Transport for Buckinghamshire, to ensure that schemes are delivered in a timely and coordinated fashion and in line with the Medium Term Plan and wider Capital Investment Programme.

It is proposed that each year as part of the MTP process future year's S106 schemes will be selected from the accumulated pool of contributions and subject to Cabinet Member approval, submitted to Business Investment Group (BIG) for the funds to be released from the S106 reserve.

Changes have already been made to the way Section 106 funds for transport are held, to ensure that Corporate Finance and Business Investment Group have oversight of all S106 including Education contributions. All contributions are currently recorded by Highways Development Management on income spreadsheets. Funds are subsequently transferred to the Section 106 reserve. (Appendix 8)

Growth and Strategy is currently working with Ringway Jacobs and TfB to develop systems that enable rolling programme of S106 funded schemes to be delivered through the TfB contract framework on an annual basis, taking a shared risk approach.

Since design costs are typically disproportionate on lower value S106 schemes, by commissioning the schemes as a programme this will enable better economies of scale and spread design costs across small to large value schemes.

An outline proposal has been submitted by representatives acting for Transport for Buckinghamshire, which set out how this might be achieved and the benefits of adopting a partnership approach. (Appendix 9)

4. Community Infrastructure Levy (CIL)

Buckinghamshire County Council is not a CIL collecting authority, however the contributions that District Authorities receive will continue provide valuable source of funding for future transport and education infrastructure and services. This highlights the need for building effective working relationships with the District Planning Authorities to ensure that BCC priorities are raised and where possible CIL funds secured.

Of the four District Planning Authorities in Buckinghamshire, only Wycombe District has a fully adopted CIL schedule. Aylesbury Vale District will be developing their own CIL schedule as part of the Local Plan process. However it is unlikely this will be in place before 2018.

Previous Paper has been taken to COMT and is attached for information. . (Appendix 10)

Points for discussion:

- The role of the community CIL process needs to be considered in more detail as the Districts are the leaders in this process. What is the relationship between CIL and S106 and role/impact of the county council?
- Since BCC are not a CIL collecting authority – how can we best ensure that we are able to continue to drive the right transport outcomes and secure funding for services and infrastructure if the District Planning Authorities hold the purse strings?
- To what extent is there a need for an improved partnership approach between the County Council and District Councils to reconcile this? (The County Council has to bid competitively with others in this process and as such risk competing demands for CIL funds).
- How can BCC ensure that local needs and aspirations captured within the District CIL this process?

Resource Implications

A new Section 106 Officer post created within the Transport Economy and Environment, Growth and Strategy Service. This role is actively being recruited as part of the TEE transportation.

During the interim it is proposed to continue with external temporary support to ensure system development is progressed. Estimated cost based on 2 to 3 days per week for six months is approximately £15,000. This is currently being met within service budget from developer fee income and consultancy budgets.

Legal Implications

Currently all Section 106 agreements are instructed through the Councils own legal services team and cost of producing S106 agreements are met by the developer.

Legal Services provide monthly lists for all Section 106, 278 and 38 agreements, which are cross referenced and used to update the master deed list. Example (Appendix 11)

Meetings have been held with legal services to see how S106 procedures may be improved. This is mainly around mechanics of Section 106 negotiations and agreements to improve clarity of roles and consistency of approach. This work will be continued when the vacant S106 Officer role is recruited.

NOTE: FOR APPENDICES REFERRED TO IN THIS PAPER PLEASE CONTACT KAMA WAGER, COMMITTEE ADVISOR.

Appendix 3

Information provided by Oxfordshire County Council – Team and Monitoring and Recording processes.

Oxfordshire County Council Infrastructure Funding Team

1. The County Council enters into between 70 and 100 planning obligations a year including both Section 106 agreements and Unilateral Undertakings. These are known as “Agreements” with “Obligation” referring to the individual undertakings in the corresponding Agreements. These Agreements can be anything from a simple undertaking to pay a 3-figure sum for particular works, to a complex Agreement comprising tens of million pounds of contributions, arrangement to transfer land to the County Council, the delivery of works and the protection of land against certain activities. The Planning Obligations Team monitors each and every one of these Agreements and all of the Obligations from the completion of the Agreement, the start of the development through to the end of a development and often beyond, in order to ensure complete transparency and financial probity. The total annual value of these Agreements over the last 6 financial years has varied from £9.5 million in 2011 at the height of the recession, to £59 million in 2008/09. Each year the County Council receives in payments related to extant Agreements in the region of £10 million per year.
2. The Infrastructure Funding section of the Council comprises two teams and a Team Leader. One is the S106 Negotiations Team, the other of which is the Planning Obligations Team. There is also a Planning Liaison Officer who, although is with the Planning Obligations Team, works on tracking, monitoring applications & appeals and also pursuing S106 on smaller developments.
3. The Negotiations Team comprise of 4 officers who negotiate with applicants and their agents/consultants with respect to infrastructure and contributions the County Council considers are necessary to meet the impact arising from new development in the county.
4. Currently the County Council sends a combined single response to a district planning application consultation. This combined response includes a response from the Education team and the Property Team which may include requests for contributions. The Negotiations team takes these requests forward and start negotiations. Although this is due to change back to our previous way of working, as the service area teams require support and advice on their responses. The team will now be made aware of applications once they are received by the County and will advise and review the service area responses prior to submission.
5. The Planning Liaison Officer records all full, outline and change of condition applications that have been received on to a database “PANDA”. This database records the status of the application, the contribution requested, the status of the S106, the name officer’s involved and relevant notes. The database is used to assign cases and monitor workloads. The individual Negotiation Officers maintain the information relevant to the cases.

6. The Planning Obligations Team is a dedicated team of five full time equivalent staff who manage and administer Section 106 obligations for the County Council. Their work includes updating and maintaining a set of planning obligation databases which hold comprehensive details as to each and every planning obligation given to and by the County Council since 1982.
7. It is the Planning Obligations Team which carries out all of the work recording Agreements and Obligations, calculating and collecting payments, and thereby enabling appropriate projects to be delivered. They also monitor the corresponding obligations to ensure that non-financial obligations on both the developer and the County Council are complied with. Detail as to the work that the Planning Obligations Team does is set out in detail in the paragraphs below.
8. The Planning Obligations Team operates 3 databases recording all necessary information. Using an excel spread sheet, the Planning Obligations Team gives each Agreement a unique code and against them they record the date, the parties, the location, the parish and details of the agreement type. An extract from that database is attached at section 2 of the attachments. The geographical area to which each Agreement applies is also plotted on the Council's GIS mapping system.[,] Thus the Planning Obligations Team can quickly confirm which Agreement and hence which Obligations will be relevant in respect of newly constructed housing estates, where the names of new roads often bear no relation to the name of the development site.
9. The second database is called ORBIT: Obligations Recorded By Individual Terms. This contains full details of every Obligation relevant to the County Council within each Agreement, regardless of whether that Obligation is owed to the County Council or by the County Council. The purpose of this is to monitor subsequent compliance with each and every Obligation and to ensure payments and compliance with obligations can be sought as they fall due. In respect of financial Obligations, ORBIT contains details of the principal sum due, any indexation, the trigger date for payment, the relevant clause of the Agreement so that if there is any query as to the terms this can quickly be checked, the long stop date on which unspent money is due to be paid back to the original payer or developer, records of every invoice issued, and the date invoices are paid. Without the information recorded in ORBIT the Council would not be able to confirm that the proposed appropriate mitigation, considered necessary at the time planning permission is issued, is provided. An extract from ORBIT showing an example of the information that is held in respect of each Agreement is attached at section 3 of the attachments.
10. ORBIT also records the nature of information that the Developer is obliged to provide to ensure compliance, for example, when a particular number of occupations is reached etc. There are also separate records detailing Obligations relating to physical works, Travel Plan Information, and details of minerals aftercare Obligations, all of which require a level of practical monitoring on site to ensure these are met and complied with.
11. The third set of databases maintained by the Planning Obligations Team are the service area spread sheets. These hold all the information regarding Obligations by reference to the relevant service areas e.g. education, libraries, highways. This enables, for example, the Education directorate to understand what money is

available, for which projects, and when that money must have been spent. By holding the information centrally the Planning Obligations Team can work to ensure that the necessary mitigation measures are appropriately delivered. Extracts from the following service area spread sheets are attached: Transport is attached at section 4; Education is attached at section 5; Museums is attached at section 6; Health and Social Care is attached at section 7; Waste is attached at section 8; and Libraries is attached at section 9.

12. The combined effect of the databases operated by the Planning Obligations Team enables the County Council to follow a contribution from an Agreement through to a specific scheme, or to track backwards from a scheme to the relevant Agreement. This allows the Council to produce End of Year Balance Sheets which provide a CIPFA compliant audit trail and an extract of an End Year Balance sheet is attached at section 10 of the attachments. The databases also ensure the appropriate amounts, with or without the addition of indexation due to be called for/paid, are calculated in advance of issuing an invoice; an example of the calculation sheets is attached at section 11 of the attachments along with the corresponding invoice.

Appendix 4

Table of s106 values form Oxfordshire County Council

Total values from across all service areas across the Council.

Sum of Value £M	Year 2014-15	2013-14	2012-13	2011-12	2010-11
Grand Total	46,313,781	50,825,777	12,377,435	11,447,383	23,829,871
	2009-10	2008-06	Grand total		
	18,698,346	46,621,855	210,114,448		