



Buckinghamshire County Council's approach to S106

A joint select committee inquiry (DRAFT) proposal

Subject of Inquiry	An examination of the County Council's approach to S106 negotiations and agreements.
Inquiry Membership	Exploratory work carried out by Warren Whyte (Chairman of ETL) and Brian Roberts (Chairman of FPR).
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Background	<p>Joint Committee Examination</p> <p>In the process of examining the Council's approach to S106 agreement both the ETL and the FRP select committees agreed in the autumn of 2013 that members considered this area of Council business worthy of further investigation and was to be included on the 2014/15 work programmes of both committees.</p> <p>Within both select committees members raised concerns around the council's process and approach to S106 agreements including issues around; stalled developments, the recording and monitoring of agreements, lack of member influence in the negotiation stages (leading to a lack of local intelligence informing the agreements) and missed opportunities (through inefficient processes) to achieve the best mitigation measures for communities.</p> <p>The select committee chairmen agreed that in order to bring together the interests of both select committees in the most efficient way, they would meet with relevant officers outside the committee meetings to carry out further examination of this topic area.</p> <p>Background</p> <p>Section 106 agreements are legally binding private agreements made between planning authorities and developers. They are termed planning obligations under Section 106 of the 1990 Town & Country Planning Act.</p> <p>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.</p> <p>Planning obligations enable a council to secure financial contributions to services, infrastructure and amenities in order to support and</p>

	<p>facilitate a proposed development.</p> <p>S106 obligations must be evidence based and justified in planning terms. Supporting BCC policies and adopted strategies are a material consideration, such as the Local Transport Plan.</p> <p>Planning authorities must take government guidance into account in their decisions on planning applications and must have good reasons for departing from it.</p> <p>Planning obligations are used for three purposes:</p> <ul style="list-style-type: none"> • 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). <p>Community Infrastructure Levy (CIL)</p> <p>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 local authorities in England and Wales can choose to charge on new developments in their area to fund infrastructure.</p> <p>The County Council is not a CIL collecting authority under the new scheme, since this role falls to District Council's in two-tier areas. Close collaboration is therefore essential between County and District Councils in order to ensure that the potential for Planning Obligations is utilised effectively.</p>
Objectives	<ul style="list-style-type: none"> • To examine the authority's policy and processes in relation to S106. • To determine how the relationships between the County Council and Districts and other partners in Bucks could be enhanced to ensure the best outcomes for Bucks residents. • To identify what the underlying principles should be in relation to new S106 arrangements. • To establish more effective ways of monitoring planning obligations so that processes and procedures may become more transparent.

Key areas of inquiry (undertaken and to be examined further).	<ol style="list-style-type: none"> 1. To gain an understanding of Section 106 (S106) Agreements and the processes and procedures surrounding the requirements for planning gain; and how are they determined, managed and monitored; 2. To gain an understanding of the roles and responsibilities of the County Council and District Councils in Bucks in relation to S106 Agreements; 3. To identify the infrastructure requirements in Bucks and evaluate how infrastructure will be delivered through S106 agreements/CIL. 4. To determine how the County Council and District Councils can work effectively in partnership on S106 Agreements 5. To examine whether the County Council needs to work more closely with District, Town and Parish Councils and local partnerships and voluntary agencies to establish the scope and content of S106 agreements and how money and other benefits are allocated? 6. To determine how elected members can effectively exercise their influence over CIL and S106 negotiation processes, inputting local intelligence; 7. Does the Council benchmark against other council's policies and procedures are there innovative ways to learn from? 8. To identify whether S106 monies could be better utilised by combining them with other sources of finance to deliver increased benefits for local communities. 9. To determine what the underlying principles of any new arrangements should be(e.g. do timeframes need to be longer, should there be more info to the public on agreements to improve transparency – what form, etc.).
Link to BCC Strategic Plan priorities	<ol style="list-style-type: none"> 1. To ensure Bucks has a thriving economy that is creating jobs. 2. To improve transport networks within Buckinghamshire and the surrounding areas. 7.To provide excellent value for money 8. To ensure your local Council and its Councillors protect the interests of Buckinghamshire residents at local, regional and national levels.
Methodology	<ul style="list-style-type: none"> • Information gathering working group sessions to be held with relevant officers and select committee chairmen. • Desk research to identify better practice from other Local Authorities. • Witness evidence from District Councils representatives.
Next steps	The Chairman will report their findings to their respective committees to be agreed before being presented to Cabinet.
Outline timetable	<ul style="list-style-type: none"> • Exploratory evidence meetings to be carried out May - August • Initial findings to be reported to committee to agree in Autumn

	<ul style="list-style-type: none">• Committee findings to be reported to Cabinet October/November
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