



Buckinghamshire County Council

Environment, Transport and Localities  
Select Committee

# Section 106: Getting better outcomes and value from developer contributions

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Draft report to be published with committee papers on 31<sup>st</sup> March to be agreed by committee on 14<sup>th</sup> 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.

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Bill Chapple  
Dev Dhillon  
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The committee is supported by the Scrutiny Team and Democratic Services. The current member of staff supporting the Committee directly is Kama Wager (Policy Officer).

### **Contacts**

The telephone number for general enquiries is 01296 382615. Email [scrutiny@buckscc.gov.uk](mailto:scrutiny@buckscc.gov.uk)

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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.<sup>1</sup> 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). Welcome improvements are evident in the recent past, however 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.

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<sup>1</sup> 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 Draft 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 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 (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 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 6<sup>th</sup> November 2013 and 18<sup>th</sup> November 2014.<sup>2</sup> After building our knowledge and understanding of the s106 process through earlier committee sessions,<sup>3</sup> the committee agreed<sup>4</sup> to hold a focussed inquiry evidence session on the 23<sup>rd</sup> February 2015 which concentrated on a few of the key strategic areas of concern arising from committee updates.<sup>5</sup> 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 (24<sup>th</sup> February), and Finance (4<sup>th</sup> 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.

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<sup>2</sup> Schedule of meetings at appendix 1.

<sup>3</sup> 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.

<sup>4</sup> At committee on 18<sup>th</sup> November 2014.

<sup>5</sup> 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.<sup>6</sup> 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

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<sup>6</sup> 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



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.

5. In our evidence session on the 23<sup>rd</sup> 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.<sup>7</sup>
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

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

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.***

## **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.<sup>8</sup> 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 officers<sup>9</sup> 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 director<sup>10</sup>, 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

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

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

<sup>10</sup> See 4 above.

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.
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).<sup>11</sup>

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 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;

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<sup>11</sup> 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.

***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.<sup>12</sup> 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.
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

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

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.***