

Agenda Item No: 4



Report to Overview and Scrutiny Committee

[S106 Scrutiny Review – Update]

The Overview and Scrutiny Committee is asked:

1. To note the progress made in respect of the recommendations of the O&S Committee in November 2021.
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Date of O&S meeting: 10th May 2022

Chair of O&S Committee: Cllr Ovenden

Relevant Portfolio(s): Planning and Development

Summary: In November 2021 the O&S Committee considered the final report of the S106 Task Group and agreed the 8 recommendations. The recommendations were approved by Cabinet in November 2021. It was agreed that an update would be presented to the Committee in six months' time, to understand the next steps

Exempt from Publication: **NO**

Background Papers: [O&S Committee (November 2021) Item 4 – S106 Task Group – Final Report; O&S Committee (March 2021) Item 4 – Report on the S106 Process]

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Report Title: S106 Scrutiny Review – Update

Introduction and Background

1. The scrutiny review of the Section 106 process formed following an initial report provided to the Committee in March 2021. The final report of the S106 Task Group was considered at the meeting on 9th November 2021 and the recommendations subsequently agreed by Cabinet.

2. The O&S Work Programme Review considered at the last meeting of this Committee on 8th March noted in respect of the S106 Review that:

‘Following the review of the Section 106 Process in 2021, a number of recommendations were made to improve the process. An initial recommendation was made to undertake a process mapping exercise of the Section 106 process.

Once this had been completed, the rest of the recommendations would be progressed.

The recommendations were approved by Cabinet in November 2021. It was agreed that an update would be presented to the Committee in six months’ time, to understand the next steps’.

3. Table 1 appended to this report sets out the progress made against the 8 recommendations so far and considers the next steps.
4. Although progress has been modest since November last year the first two months included the Christmas holiday season and saw an increase in COVID-19 infections amongst some key members of staff. Additional resources in the form of Ian Bailey (Team Leader Plan Making and Infrastructure) joined the Council on 31st January. Responding to the Task Group’s recommendations and the actions arising from the Mid-Kent Audit of the S106 process will be one of his main areas of focus starting with organising the process mapping exercise and leading to the production of a Supplementary Planning Document later this year.
5. Similar process mapping exercises have been carried out in other Authorities and there is an opportunity to explore some of these as examples of best practice. Once underway the process mapping exercise will include key partners and infrastructure providers, for example the NHS.
6. For information, some of these recommendations reflect the actions arising from the Mid-Kent Audit Review of the Council’s Section 106 process. The final report in December 2021 concluded a ‘weak’ final assurance rating, which the actions seek to address. The Council’s Audit Committee received an update report at its meeting of the 5th April.

7. Members should also be aware that at the time of preparing this report the Government has recently confirmed that it is exploring the introduction of a new Infrastructure Levy, which will replace Section 106 planning obligations and the Community Infrastructure Levy. This was included in the Government's response to the House of Lords Built Environment Committee report on Meeting Housing Demand published on the 28th March. It is possible therefore that the Government will soon consult on its proposals and in this event the recommendations of the Task Group and the Mid-Kent Audit actions may have to be revisited.

Conclusion

8. This report sets out the progress made in respect of the O&S Task Group recommendations during the last 6 months. However, as acknowledged in the Task Group's final report, most of the recommendations will be addressed following the exercise of process mapping the current arrangements and subsequently the consideration and introduction of improvements, which is just getting under way.
9. It is anticipated that the next update report will have the benefit of the outcome of that exercise, the introduction of the new planning software and progress towards a draft SPD.

Contact and Email

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Table 1: Progress towards the O&S Task Group Recommendations (April 2022)

| Recommendation | Progress | Next Steps |
|--|---|---|
| <p>I. A process mapping exercise is undertaken to provide clarity and guidance to Officers and Members involved in the Section 106 process.</p> <p>Once completed, the process map will inform recommendations II to VIII.</p> | <p>An Officer S106 Review Project Group has been established and held its first meeting in March to scope out the process mapping task and other recommendations.</p> <p>The Project group agreed that a cross-departmental officer group would be established to carry out the process mapping exercise and consider improvements to the current arrangements.</p> <p>A further group of senior officers will be kept informed of progress on a regular basis.</p> | <p>Regular meetings of the Project Group have been arranged.</p> <p>The composition, terms of reference and dates of meetings of the cross-departmental group and senior officer group have been established.</p> |
| <p>II. Guidance and training is produced for Officers involved in the Section 106 process to clarify roles and responsibilities of all Officers.</p> <p>Additionally, a 'handbook' is created for both Members and Parish Councillors, to explain the basic concepts of Section 106.</p> | <p>This will flow from the process mapping exercise noted above.</p> | <p>Timescales will be considered by the cross-departmental officer group.</p> <p>The handbook will be prepared when the agree improvements have been finalised.</p> |
| <p>III. Communication over Section 106 is improved between the Planning Service and Parish Councils including key contact(s) for accessing advice.</p> | <p>As a first step towards this objective, the review of the S106 process was explained during a Parish Training Event held on 14th March and was well received.</p> | <p>Further engagement with the Parishes will form part of the review.</p> |

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| <p>IV. Training on Section 106 should be provided to Members and Parish Councils on an annual basis.</p> <p>The initial programme for the training should be reviewed by the Member Training Panel in consultation with the Chair of the Section 106 Task Group.</p> | <p>This will be arranged once the process mapping of the S106 system has been completed and any improvements agreed and introduced.</p> | <p>An initial training programme will be prepared once the S106 has been completed later this year.</p> |
| <p>V. The new Planning IT software is expected to provide information on the council's website about what Section 106 monies are available to individual parishes</p> | <p>This will be made possible once the new ARCUS software is introduced in the summer.</p> | <p>It is anticipated that the new software will be implemented by July his year.</p> |
| <p>VI. Delivery of the Infrastructure Contributions SPD should be prioritised. The SPD should provide an up to date list of what is expected of developers within a single document. This will provide clarity for all parties involved in the Section 106 process.</p> | <p>This will follow the process mapping exercise and any agreed amendments to the S106 process.</p> | <p>It is anticipated that this will be prepared and adopted by the autumn of 2022.</p> |
| <p>VII. There is a standardising of Section 106 Agreements and use of templates where appropriate</p> | <p>A standard letter has been drafted for developers signing up to a S106 agreement.</p> | <p>This will be uploaded to the new ARCUS software in the summer.</p> <p>The officer working groups will, as part of the process mapping exercise, review the wording of S106 agreements, standardise the format of regularly used sections and devise templates for ease of use.</p> |
| <p>VIII. Legal Services are trained to use the new IT system adopted by the Planning Department, to enable them access to relevant Planning documentation and therefore streamline the process.</p> | <p>No progress to date as this requires the new software is still being finalised.</p> | <p>The new ARCUS software will be installed in July and training for all relevant officers will be organised to coincide with the launch.</p> |