

**Agenda Item No:**



Report to Overview and Scrutiny Committee

**S106 Review – Process Mapping Update**

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**The Overview and Scrutiny Committee is asked:**

1. To note the progress made towards the processing mapping exercise of the current S106 process.
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**Date of O&S meeting:** 13<sup>th</sup> September 2022

**Chair of O&S Committee:** Cllr Ovenden

**Relevant Portfolio(s):** Planning and Development

**Summary:** This report provides an update on the process mapping exercise of the current process for identifying, negotiating, implementing and monitoring S106 agreements in response to the first recommendation of the O&S S106 Task Group report to Cabinet in November 2021.

It also provides an update for the Committee in respect of the remaining seven recommendations (see Table 1), progress in respect of the Mid Kent Audit actions and other S106 related work streams current being led by the Plan Making and Infrastructure Team.

**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; O&S Committee (May 2022) Item 4 S106 Task Group Recommendations Update Report]

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## Report Title: S106 Review – Process Mapping Update

### Introduction and Background

1. The O&S S106 Task Group set out 8 recommendations, which were endorsed by Cabinet in November 2021. The first recommendation sought a process mapping exercise of the way S106 agreements are prepared from start to finish to provide clarity and guidance to Officers and Members involved in the Section 106 process. It was anticipated that this would then inform the remaining recommendations.
2. An update on progress was reported to the Committee in May, which concluded that a further update would be brought back to the Committee within 6 months, with the task of completing the process mapping exercise a priority.
3. This report updates the Committee in respect of the process mapping exercise, which is set out in Annexes 1-3 of this report and includes an update in respect of the remaining recommendations in Table 1 attached.
4. It also updates the Committee in respect of progress towards the Mid Kent Audit actions following the publication of their report into the S106 process in 2021 and other tasks being progressed by the Plan Making and Infrastructure Team that are relevant to the S016 review.

### The Process Mapping Approach

5. In simple terms a process map visually shows a flow of work, identifying each stage from start to finish. To fully capture the S106 process used by Ashford Borough Council from start to finish the process mapping exercise should cover the three distinct, but linked phases of the full process, which are:
  - The policy formulation stage or plan making phase;
  - The planning application phase; and
  - The monitoring and implementation phase.

#### The policy formulation stage or plan making phase

6. The policy formulation stage usually occurs during the preparation or review of a Local Plan every 5 years or so. This statutory process identifies and plans for future growth in the Borough, reflecting both national and local aspirations for guiding future development. Policies will set out requirements that future developers will be expected to meet in order to meet these aspirations.
7. Importantly it also identifies the new infrastructure necessary to accompany the planned growth. Before submission to the Government a viability

assessment is carried out to ensure that it is deliverable. The Plan is subjected to independent examination before it can be adopted.

8. The review of the Ashford Local Plan 2030 provides an early opportunity for Members, working with relevant Portfolio Holders, to steer and influence these formative building blocks for delivering future infrastructure through S106.
9. Once adopted the Local Plan sets the parameters for negotiating future developer contributions, so this is an important first stage in the process. Local Plans are subject to public consultations during their preparation so it is important that communities, Parish Councils, land owners and developers engage when invited to do so.
10. In addition to the Local Plan, the development plan for an area can also include made Neighbourhood Plans. These too can include policy requirements that have to be taken into account in the S106 process. As Neighbourhood Plans have to be in accordance with national planning policy and the adopted Local Plan, the policy requirements for S106 can be local or specific in nature.
11. This part of the S106 process map can be found in **Annex 1** attached to this report.

#### The planning application phase

12. While the development plan sets the framework for developer contributions, for a S106 agreement to be completed will require a qualifying proposal for development in the form of a planning application to be submitted to the Local Planning Authority.
13. This part of the process can be found in **Annex 2**.
14. It is important to note that not all planning proposals will require a S106 agreement, which is normally required in order to make a planning application acceptable in planning terms.
15. For example, some development is permitted under what is known as permitted development rights, which are set out in national planning policy (the General Permitted Development Order (GDPO)) and is regularly reviewed.
16. Permitted development is considered to be acceptable in planning terms and therefore it is not normally necessary for a developer contribution to be considered. Exceptions to this may arise through a prior approval process that identifies a need for mitigation for highways impact or flood risk mitigation for example.
17. Permitted development rights are restricted in some sensitive areas such as Conservation Areas and they can in exceptional circumstances be removed by a Local Planning Authority under what is known as an Article 4 Direction.

### The monitoring and implementation phase

18. Once a S106 agreement has been signed, planning permission is granted and development should commence usually within 3 years.
19. The S106 agreement will set out trigger points for the payment of developer contributions, for example, based on the completion or occupation of a certain number of dwellings. The monitoring of progress on development sites and these triggers is currently the role of the S106 Monitoring Officer.
20. When funding has been received by the Local Planning Authority the Monitoring Officer alerts service and infrastructure providers and funds are either transferred to external providers such as Kent Education or the Clinical Commissioning Group or internal services commence discussions with relevant communities in order to identify projects to mitigate the impact of the development.
21. This final phase is set out in **Annex 3** to this report.

### **Progress against the remaining Task Group Recommendations**

22. Progress in respect of the Task Group recommendations, reported to the Committee in May, has also been updated and can be found in Table 1 attached.
23. Although currently in draft, it is anticipated that the guidance notes, handbook for parishes and training for officers, members and parish councillors will be subject to continuous update and improvement so that everyone is on the same page.

### **Update in respect of the MKA Actions**

24. Members will recall that the update report considered by the Committee in May also referred to the MKA audit report and the agreed actions to improve the current S106 process.
25. Since May officers have been working hard to respond to the MKA actions alongside progressing the Task Group recommendations, focusing on the process mapping exercise. These will complement the improvements to the S106 process that the O&S Task Group have identified.
26. Additional resilience in the S106 Monitoring function has been enhanced by the recent appointment of a new S106 Monitoring Assistant post to the Spatial Planning Team to assist the current S106 Monitoring Officer. The successful candidate's previous role in the Council's Land Charges Team means that

they have extensive experience of working at Ashford Borough Council, within the Planning Department, using the same IT systems and they are also familiar with the local area, council officers and Parish Councils. The new post will be in place during the month of September.

27. The new Arcus planning software replaced the former Acolaid system in July as planned. The new system has great potential to improve the way S106 agreements are accessed and presented to all involved in the S106 process.
28. Arcus will be a key component for improving the sharing of information on S106 agreements in due course, but this will require the transfer of significant amounts of historic data, which is still underway.
29. Progress has also been made in reviewing older S106 agreements to confirm that trigger points were met, funds collected and spent. The first tranche involved S106 agreements signed since 2010 and a second tranche will look back to the period between 2001 and 2010. This has proved to be very time consuming for the S106 Monitoring Officer who has had to review various sources of information. The new officer will enable this final tranche of review much more quickly.
30. The audit recommended that procedural notes are prepared for some aspects of the process, for example the process for returning unspent S106 funds and a protocol for taking enforcement action in the event of a breach of an agreement by the developer and introducing some safeguards, such as a traffic light system to warn of deadlines approaching. These actions have been progressed since May and MKA informed.
31. The S106 Project Group has been reformed and continues to meet regularly to review progress against the MKA actions and the Task Group recommendations, oversee the S106 process and review requests to spend.
32. Discussions with colleagues have also progressed in order to refresh the standard heads of terms for developer contributions that comprise 'Table 1', which accompanies planning Committee reports where a S106 agreement is required.
33. Officers have continued to liaise with Parishes to discuss general and more specific S106 matters since the meeting in May. Examples include providing advice on a request to spend requests and a meeting with Chilham Parish Council in July to review what can and cannot be secured in the form of developer contributions relating to recent and potential future developments in the Parish.
34. Conversations with external service providers such as KCC Education and the Clinical Commissioning Group/NHS Estates regarding developer contributions including the challenges of increasing costs and helping those providers to understand which are suitable projects have also continued in the period since May.

35. In addition to these S106 Review specific tasks, progress has also been made in respect of related work streams led by the Plan Making and Infrastructure Team. In no particular order these include:

#### Stodmarsh

36. Progressing the strategic wetland solution to the nutrient neutrality issue at Stodmarsh Lakes. This has been a key priority for the Team as much of the housing land supply allocated in the Ashford Local Plan 2030 is affected. This means that residential development in the Stour Catchment is effectively paused until mitigation to the satisfaction of Natural England can be secured.
37. This has implications for the Council's 5 year housing land supply and has resulted in a higher number of planning appeals in the areas of the borough outside of the catchment than would normally be expected given the age of the adopted Plan. This is another pressure on the capacity of the Team.
38. It also means that developer contributions attached to those paused developments and the infrastructure they could be providing is also on hold pending an appropriate solution.
39. When a solution is agreed and implemented, qualifying developments in the catchment that require nutrient neutrality credits to offset the impact of their developments will have to include these payments as part of a S106 agreement. The details of this will be set out in a new SPD.
40. The final figures will not be known until the wetlands solution is agreed, but it will have an impact on the viability of those developments and by implication reduce the potential for other developer contributions that are currently sought and any new contributions in the future (for example to offset the impacts of developments on climate change).
41. This is not critical for the current review of the S106 process, but it will be an important consideration when the Local Plan Review commences and the process for setting developer contributions explained in Annex 1 is revisited.

#### The Local Plan Review

42. The Government requires that a Local Plan Review has to commence within 5 years of adoption, which in the case of Ashford is February 2024. Despite the considerable uncertainties for plan making at the present time, for example the national planning reforms proposed by the Levelling Up and Regeneration Bill and securing the aforementioned Stodmarsh solution, it is anticipated that the review will commence during 2023.
43. Preparatory work has already begun in the form of revisiting the evidence base to assess where there is a need for updating or introducing new evidence to respond to new national planning policy requirements, for example, the new policy for a minimum of 10% biodiversity net gain

introduced by the Environment Act 2021, which is expected to come into force by November next year.

44. Some elements of the current evidence base that are important references for negotiating S106 agreements are out of date, for example the Open Space Strategy and Public Green Spaces and Water Environment SPD and these will need refreshing as a matter of priority.
45. These factors are also important for the S106 process as the review of the Local Plan will be an opportunity to revisit the parameters for developer contributions as described in Annex 1. The viability assessment will also have to take into account the rising costs of infrastructure that some providers are already flagging up.

#### Climate Change

46. Officers are preparing a Climate Change SPD to respond to the Council's objective to become carbon neutral by 2030. Members will decide on the level of mitigation over and above the minimums set nationally, supported by local evidence, but again this will put additional pressure on the viability of future development proposals and the quantum of developer contributions that can be negotiated.
47. This does not mean that locally agreed priorities cannot be included in the discussion, but it may require choices that ultimately result in some lower priority requests being removed.

#### National Planning Reforms

48. Officers are monitoring the progress of the Levelling Up and Regeneration Bill through Parliament and any consequential reviews, such as the expected publication of a prospectus for a new National Planning Policy Framework (NPPF) this 'summer'. While this is not relevant for the current review of the S106 process as noted at the meeting in May, the former is widely expected to replace the current developer contributions regime with a new single Infrastructure Levy and the latter may include a new way of preparing Local Plans, so keeping on top of developments in this area is food for thought.

### **Conclusion**

49. This report sets out the process mapping of the S106 procedure used at Ashford Borough Council in the form of three simple flow diagrams at Annex 1-3 attached. Updates on progress made towards the MKA actions, the other Task Group recommendations and S106 related work streams is also presented in this report and Table 1. This information will facilitate progress towards the remaining O&S Task Group recommendations agreed by Cabinet in November 2021, which will be the subject of a further report to the O&S Committee at the November 2022 meeting.

## **Contact and Email**

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

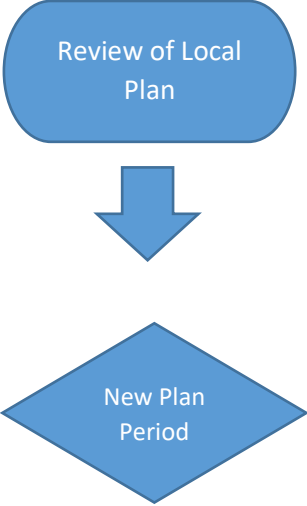
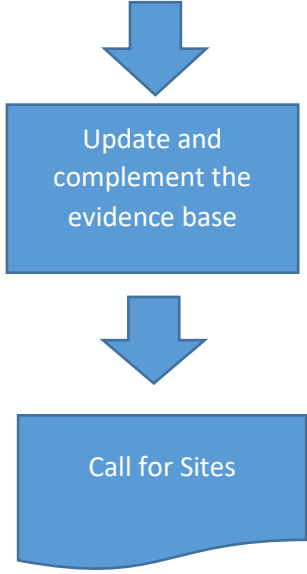
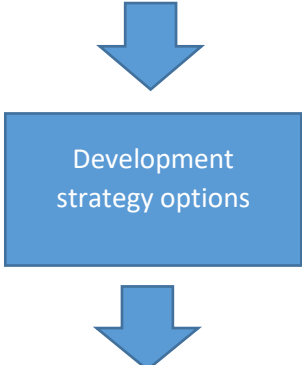
Recommendation	Progress	Next Steps
<p>I. A process mapping exercise is undertaken to provide clarity and guidance to Officers and Members involved in the Section 106 process.</p> <p>Once completed, the process map will inform recommendations II to VIII.</p>	<p>The process mapping of the entire S106 process has been completed.</p>	<p>The process mapping exercise is due to be presented to O&amp;S Committee on 13.9.22.</p> <p>Any comments or refinements will be considered and subject to any further amendments the finished version will be used to inform the remaining recommendations.</p> <p>The process mapping exercise will be continuously updated to reflect any improvements to the current system.</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>The process mapping exercise has clarified the current roles and responsibilities of the officers involved in progressing S106 agreements, from plan making, through to the processing of planning applications and on to monitoring and implementation.</p> <p>The process map for the planning application and monitoring and implementation stages of the process can form the basis of an illustrative handbook for Parish Councils explaining the basic concepts of S106.</p>	<p>A guidance note utilising the final process mapping, together with the officer contacts has been drafted and will be made available to all officers involved in S106. This will also form the basis of an officer workshop to be arranged in the autumn.</p> <p>The handbook has been drafted incorporating the final process mapping, together with the list of key contacts and a refresh of the advisory notes for Parishes prepared by the Community Grants Officer.</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>The S106 Officer Project Group has agreed that a Parish Training event specifically on the S106 process will be arranged for the autumn, ideally to coincide with the roll</p>	<p>Event to be arranged and publicised/promoted to all Parishes well in advance.</p>


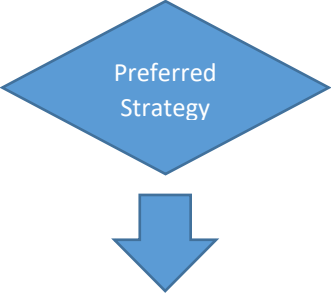



	<p>out of the Parish Handbook referred to in Recommendation II. This will be a session dedicated to the S106 process to complement the shorter introductory session forming part of the Parish training event held in March 2022.</p> <p>There be a similar training event explaining and clarifying the current S106 process for Borough Councillor Members.</p> <p>These training events will be recorded and provided to parishes and members for them to refer to for future use. It is anticipated this will improve the delivery of Member annual updates on the S106 process</p>	<p>An event pack will be provided to all Parish Clerks containing a copy of the handbook and any other presentation materials used at the event.</p> <p>If the event is held over Microsoft Teams this will be recorded and a copy made available to all Parishes.</p>
<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>Inquiries have been made with Democratic Services to consider adding an item on Member Training to next year's running list for the Member Training Panel to include an item on S106.</p> <p>This will be included in the induction training for newly elected Members after the Borough Council Elections in May 2023.</p>	<p>Confirm arrangements in consultation with the Chair of the Section 106 Task Group and the Member Training Panel.</p> <p>It is anticipated that this training will take into account any improvements to the current S106 process that may be introduced as a result of the Mid Kent Audit Actions and the O&amp;S Task Group Recommendations.</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>The new Arcus software replaced the previous Acolaid software on 14<sup>th</sup> July.</p> <p>There have been some residual issues post transfer, which are being addressed as a matter of urgency but this has resulted in</p>	<p>Once the outstanding issues are resolved the full benefits of the new Arcus system for recording, monitoring and presenting S106 information can be realised.</p>

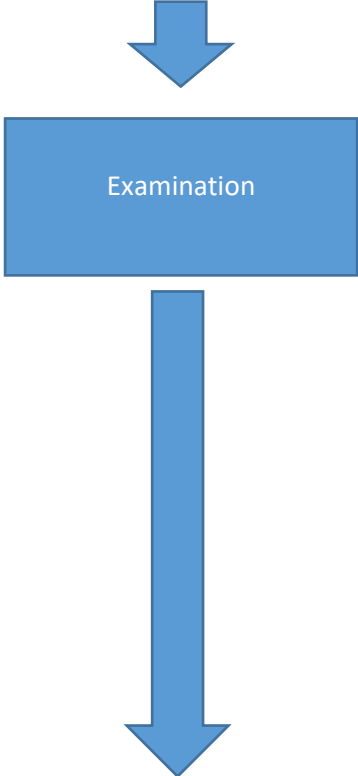

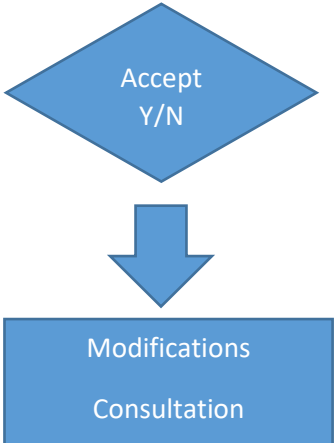
	<p>some delays in obtaining the full functionality of the system.</p> <p>Two examples, relating to S106 monitoring include the migration of data from Acolaid to Arcus, which has required some manual inputting and labelling and confirming a mechanism for recording projects, which is the subject of further discussions with the software providers.</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>The process mapping exercise has identified that some of the documents currently used to inform S106 agreements need updating (for example the Open Space Strategy).</p> <p>Officers are currently investigating which parts of the supporting evidence need revisiting – this will take some time to complete involving in some cases the commissioning of consultants.</p> <p>The Mid Kent Audit actions will also introduce some improvements to the way S106 agreements are currently monitored.</p> <p>To incorporate all of the updates and improvements to the process in a SPD, which in itself will require consultations before adoption, would have the effect of delaying the availability of this document into next year.</p>	<p>In order that an up to date list of what is expected of developers can be prepared as a matter of urgency, an interim guidance note setting out the standard heads of terms for S106 agreements (sometimes referred to as ‘Table 1’) together with an explanatory note is proposed in advance of a full SPD – the Interim Guidance Note can be prepared for consideration at the next meeting of the Committee in November.</p> <p>The S106 process mapping exercise, recognises the review of the Local Plan as an early opportunity to establish local priorities through plan policies and refresh the evidence base, which will be important considerations for setting S106 agreements in future. Members, working with relevant Portfolio Holders, will be able to steer and influence these building blocks for delivering future infrastructure through S106.</p>

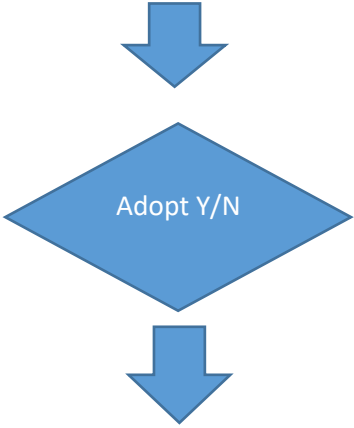

		In the meantime, planning have been working with external service providers such as KCC Education and the Clinical Commissioning Group/NHS Estates regarding developer contributions including the challenges of increasing costs and helping those providers to understand which are suitable projects. This dialogue will continue.
VII. There is a standardising of Section 106 Agreements and use of templates where appropriate	The Mid Kent Audit report made similar recommendations regarding standardised wording and templates.	The S106 Officer Project Group are reviewing recent examples of S106 agreements and preparing some standard wording for use in future S106 agreements for consistency.  Legal colleagues to be advised.
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.	Training has not been provided to date while the new software is being refined..	Once Arcus is fully functioning it may not be necessary for all staff to have full access and training to fulfil their role in the S106 process.  It is envisaged that planning officers will instruct legal officers as to the input required on S106 on a case by case basis, using planning officer's professional judgement.

**S106 Process Map – Phase 1 – The Policy Formulation or Plan Making Stage**


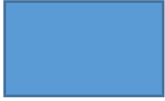
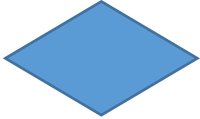


Process	Comments
	<p>Once adopted Local Plans should be reviewed with 5 years.</p> <p>The Ashford Local Plan 2030 was adopted in February 2019 so the review should commence by February 2024.</p> <p>The review will be an opportunity to rebase the plan and plan period, identify new site allocations if required, update the evidence base and amend or introduce new policies.</p> <p>The review presents an opportunity to revisit the parameters for setting developer contributions including priorities for new infrastructure.</p>
	<p>Assuming the plan period has been rolled forward then the evidence base should be updated to cover the extension.</p> <p>Some of the older parts of the evidence base may be out of date and require a refresh.</p> <p>And there maybe additional policy areas that require new evidence to be prepared.</p> <p>If additional site allocations are needed to meet future needs for housing and employment a Call for Sites exercise is carried out. This identifies potential future development sites that are available, suitable and deliverable.</p>
	<p>Different development strategy options to meet future needs, deliver local plan aims and objectives and that are in accordance with national planning policy are prepared and subject to a Sustainability Appraisal.</p> <p>These together with the overall aims and objectives of the Plan form the basis of a first round of public consultations to invite views on the direction of travel.</p>

 <p>Regulation 18 Consultation</p>	<p>Consultations are held for a minimum of 6 weeks and comments invited. These are considered and taken into consideration in preparing the next, more detailed iteration of the Plan.</p> <p>Parish Councils and communities have an opportunity to express their views on the distribution of future growth and the infrastructure to accompany it.</p>
 <p>Preferred Strategy</p>	<p>An appropriate development strategy is identified and the evidence base is completed. This includes the Infrastructure Delivery Plan (IDP) and the whole plan viability assessment.</p> <p>These documents start to set out the basis for establishing future developer contributions.</p> <p>Detailed Local Plan Policies are prepared to complete the draft Local Plan.</p>
 <p>Regulation 19 Consultation</p>	<p>Consultations are held for a minimum of 6 weeks and comments invited.</p> <p>Parish Councils and communities once again have an opportunity to comment on the draft Plan.</p> <p>The representations are considered and a response prepared, which then forms part of the submission documents.</p>
 <p>Submission of the Local Plan to the Secretary of State</p>	<p>The Local Plan documents, evidence that these are based on and any other documents that are required to demonstrate that the Plan is legally compliant and sound are submitted to the Secretary of State responsible for Planning (Currently the Levelling Up and Regeneration Secretary).</p>
 <p>Inspector(s) appointed</p>	<p>The Secretary of State appoints a Planning Inspector (sometime two) to carry out an independent Examination of the Local Plan.</p>

	<p>Once the Inspector has considered all of the submitted documents initial questions may be asked of the Local Planning Authority.</p> <p>When the Inspector is satisfied, a programme for the examination hearings can be agreed and Matters, Issues and Questions to guide the hearings are published.</p> <p>The Local Planning Authority and any representors at the Regulation 19 consultation expressing a wish to attend the hearings prepare written statements to support their case.</p> <p>There are usually two stages to an Examination, the first to deal with matters of legal compliance and if passed the second to consider the detailed policies and proposals.</p> <p>Depending on the complexity of the issues and number of representations made, hearings can take between 4-6 weeks of sessions, sometimes with a break in proceedings.</p>
	<p>After the close of the Examination the Inspector prepares a report and, if necessary, proposes modifications to make the Plan sound.</p> <p>This will include consideration of the deliverability of the plan proposals and the viability of any developer contributions set out.</p> <p>The report is returned to the Local Planning Authority to consider.</p>
	<p>If the Inspector's report and any modifications are accepted the Local Planning Authority then carries out further public consultations on the modifications proposed for a minimum of 6 weeks.</p> <p>The Local Planning Authority is not obliged to accept the report and modifications, but if challenged the Planning Inspectorate may find the Plan unsound.</p>

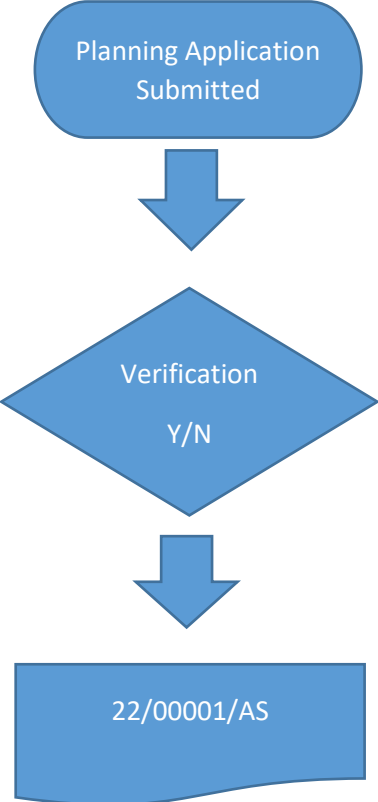
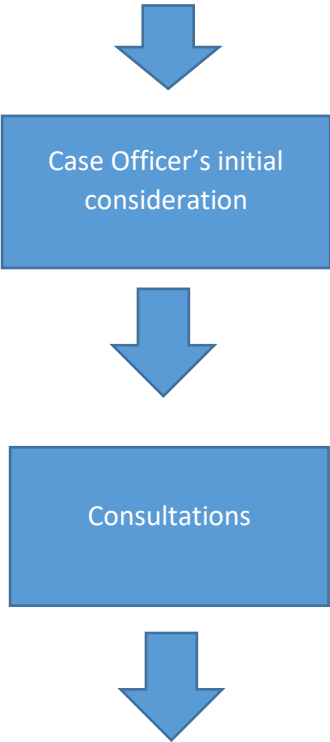
	<p>Once the consultation period is concluded and any further amendments agreed and made the Local Planning Authority can resolve to adopt the Local Plan.</p>
	<p>The new Local Plan replaces any former plans and evidence and carries maximum weight in determining planning applications, including the scope and quantum of any developer contributions necessary to make planning applications acceptable in planning terms.</p>

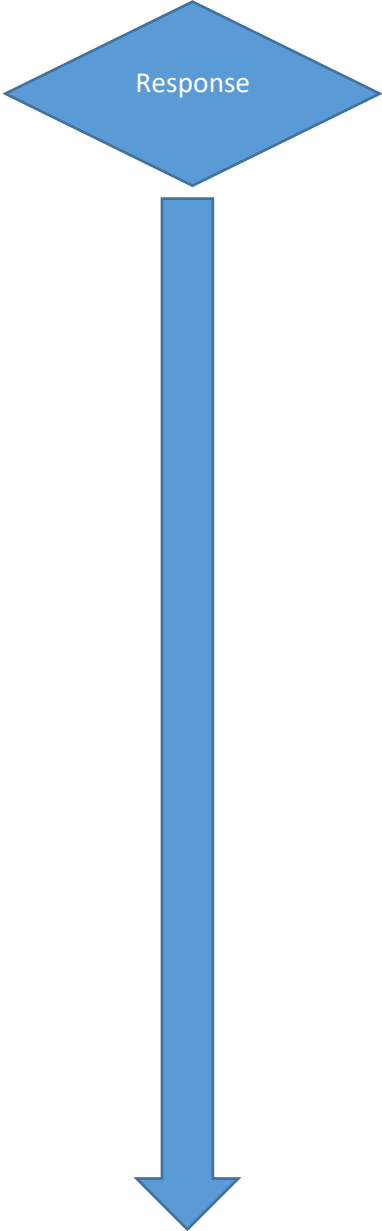

**Key to Process Map Symbols used**

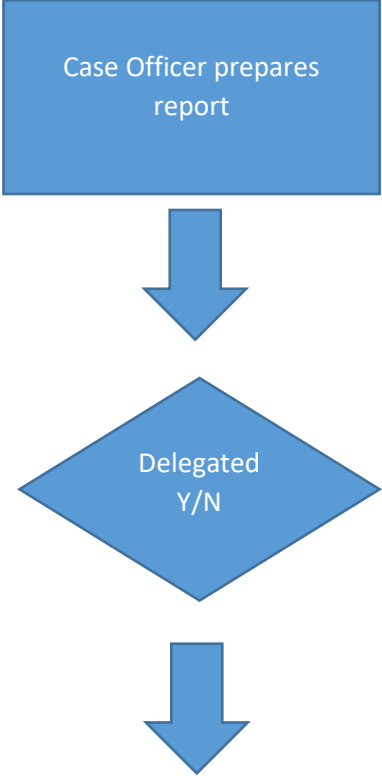
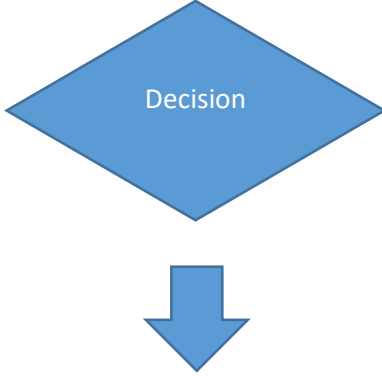
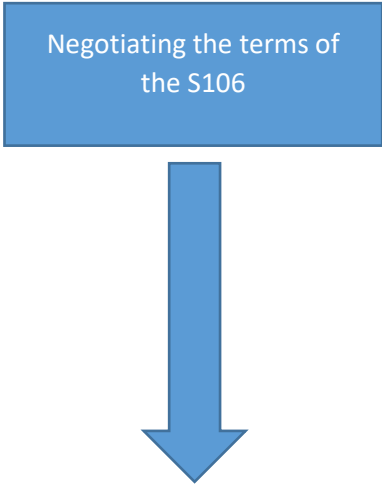
Symbol	Description
	<p>Terminator – used for the start and finish of a process map</p>
	<p>Activity or Process</p>
	<p>Decision</p>
	<p>Document</p>
	<p>Direction of Flow</p>


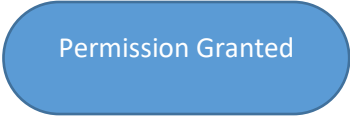


**S106 Process Map – Phase 2 – The Planning Application Stage**



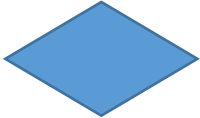


Process	Comments
 <pre> graph TD     A([Planning Application Submitted]) --&gt; B{Verification Y/N}     B --&gt; C[22/00001/AS]             </pre>	<p>Pre-Application advice is an optional paid for service in advance of the submission of a planning application, where preliminary consideration of whether a developer contribution may be required, but as this advice is confidential, the process properly starts when an application is received.</p> <p>Once received applications and any supporting documents are verified and if satisfactory a reference number and case officer are allocated.</p> <p>New applications are uploaded to the Council’s website using planning software (Arcus since July 2022, previously Acolaid) and weekly lists published.</p>
 <pre> graph TD     D[Case Officer’s initial consideration] --&gt; E[Consultations]             </pre>	<p>The Case Officer will review the Planning application, referring to the adopted Local Plan, any made Neighbourhood Plans, the Kent Minerals and Waste Local Plan and any other material planning considerations that may apply.</p> <p>The planning history of the site and any pre-application advice will also be taken into consideration.</p> <p>Once these matters have been considered consultations with other council departments, statutory undertakers, service providers, and Parish Councils or Urban Community Forums will be arranged.</p>

 <p style="text-align: center;">Response</p>	<p>If the proposal is of a scale that requires developer contributions in order to mitigate impacts on local infrastructure, service providers are invited to include an estimate and identify any potential projects.</p> <p>An example of this sub-process, based on the Council’s former Cultural Services Team can be described as follows:</p> <ol style="list-style-type: none"> <li>1. Consultation email received;</li> <li>2. initial calculations made by considering the quality and quantity of existing provision;</li> <li>3. Calculate capital request of on- and off-site provision based on a per-dwelling figure for open space, indoor and outdoor sport, voluntary sector contributions, public art and community facilities;</li> <li>4. Invite comments from colleagues regarding potential projects, referring to the Council’s open space strategy, playing pitch strategy and local plan policies;</li> <li>5. Inform the Funding and Partnerships Officer of the outcome who then liaises with the relevant Parish Council or UCF;</li> <li>6. Respond to planning case officer;</li> <li>7. Support the case officer and Legal colleagues in preparing the S106 agreement up to the point of signing;</li> <li>8. Save a copy of any correspondence, comments and calculations on the Team Drive.</li> </ol> <p>External service providers such as KCC Education and the CCG use their own formulas for generating a per-dwelling figure for developer contributions.</p>
 <p style="text-align: center;">Consultation responses uploaded to website</p>	<p>Any consultation responses received by the case officer are uploaded to the Planning Applications section of the Council’s website under the ‘documents’ tab.</p> <p>These can include service provider’s comments on the developer contributions required by the proposal and if known any specific projects to mitigate the impact of development.</p> <p>This section also includes any comments from local residents, Parish Councils and UCFs as well as the applicant.</p>


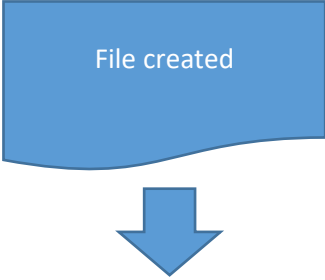
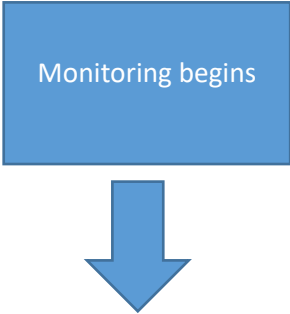
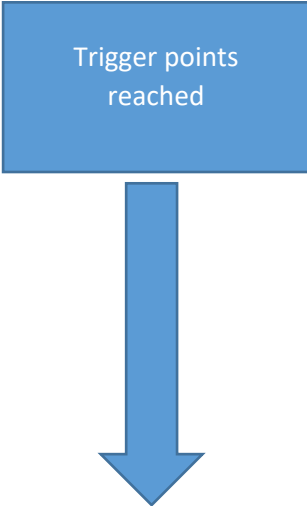
 <p>Case Officer prepares report</p> <p>Delegated Y/N</p>	<p>The Case officer considers the responses as part of preparing a report. Most applications are determined as part of a scheme of delegation, but major applications, those that are sensitive or subject to local Member call in are considered by the Planning Committee.</p> <p>The report to Committee will set out all of the relevant information and conclude with a recommendation to permit, permit subject to the signing of a S106 agreement or refuse.</p> <p>Members debate the merits of the case and take a vote whether to accept the recommendation, defer (for further information) or refuse (with reasons).</p> <p>If a S106 is considered necessary in order to make the application acceptable in Planning terms, the details of this will be set out in Table 1 of the report.</p>
 <p>Decision</p>	<p>If the decision is to permit subject to the signing of S106 agreement, the process moves to the negotiation phase.</p> <p>The starting point will be Table 1 in the report, but additional details will need to be considered and agreed as part of a legal agreement.</p>
 <p>Negotiating the terms of the S106</p>	<p>The negotiations involve the setting out in detail what any contributions are for, when payments or mitigations need to be made (these are sometimes referred to as ‘trigger points’ and are usually set by completions or occupations for residential schemes), and any clawback clauses.</p> <p>These are timescales agreed in advance of when contributions have to be spent/implemented. Failure to do so may lead to contributions being repaid to the developer.</p> <p>These negotiations can take some time to conclude. Sometimes applicants/developers will challenge the justifications.</p>

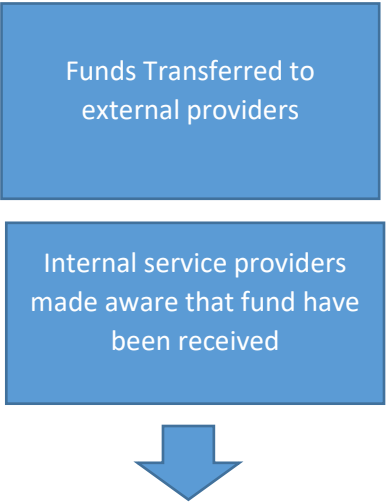
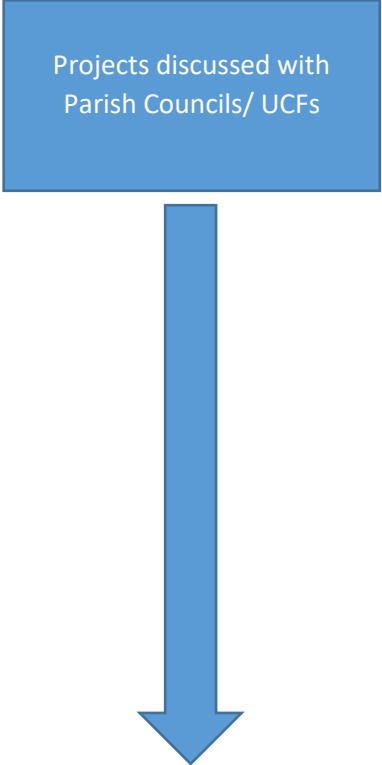
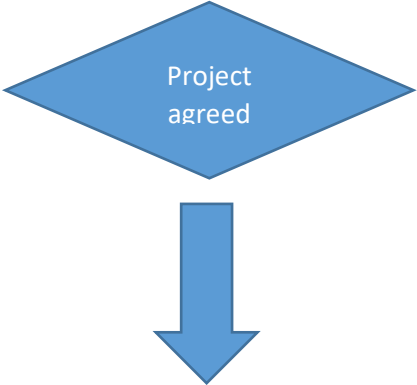
	<p>Once the S106 agreement is signed by both parties, the planning application is approved and the timescales for implementation begin.</p> <p>Development is usually expected to commence within 3 years of permission being granted, unless a shorter or longer timescales has been agreed with the Local planning Authority.</p>
	<p><b>Once development commences the Application phase comes to an end and the proposal moves to the monitoring and implementation phase.</b></p>

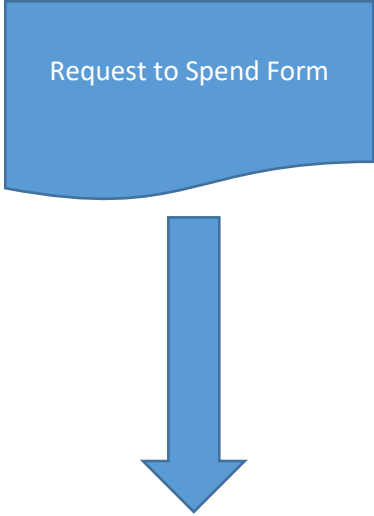
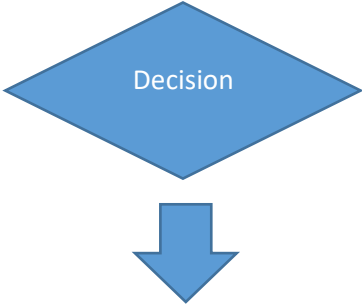

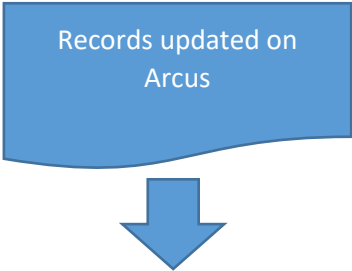
**Key to Process Map Symbols used**


Symbol	Description
	<p>Terminator – used for the start and finish of a process map</p>
	<p>Activity or Process</p>
	<p>Decision</p>
	<p>Document</p>
	<p>Direction of Flow</p>

**S106 Process Map – Phase 3 – The Monitoring and Implementation Stage**



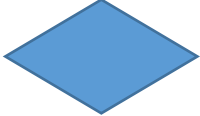


Process	Comments
 <p>A blue rounded rectangle containing the text "S106 Agreement Signed". Below it is a blue downward-pointing arrow.</p>	<p>Once a S106 agreement is signed the new agreement is saved on the Planning Department system using Arcus (formerly Acolaid). Further copies are saved by Legal and Finance for their records.</p> <p>The S106 Monitoring Officer is also made aware and the monitoring process commences.</p>
 <p>A blue rectangle with a wavy bottom edge containing the text "File created". Below it is a blue downward-pointing arrow.</p>	<p>A file is created for the new Agreement and the Monitoring Officer makes a note of the trigger points.</p>
 <p>A blue rectangle containing the text "Monitoring begins". Below it is a blue downward-pointing arrow.</p>	<p>The S106 Monitoring Officer liaises with colleagues in the Plan Making and Infrastructure Team who carry out an annual assessment of housing completions in the Borough to ensure that information regarding the 5 year housing land supply and housing delivery test are accurate and up to date.</p> <p>For those schemes known to be under construction, the Monitoring Officer keeps in regular contact with the developer to ensure the trigger points are not missed.</p>
 <p>A blue rectangle containing the text "Trigger points reached". Below it is a large blue downward-pointing arrow.</p>	<p>When a trigger point is reached, for residential schemes this is usually an agreed number of completions or in some cases occupations, the Monitoring Officer checks with Finance colleagues to see if the agreed funding has been received.</p> <p>If this is not the case the Monitoring officer contacts the developer to remind them.</p> <p>If payments are still not forthcoming the Council can consider enforcement procedures as the developer is in breach of the terms of the Planning permission by failing to pay contributions. This is the subject of a separate procedure note.</p>

 <p>Funds Transferred to external providers</p> <p>Internal service providers made aware that fund have been received</p>	<p>If the funding received is for external service providers such as KCC Education or the Clinical Commissioning Group to provide additional pupil capacity or enhance primary health care facilities this is transferred.</p> <p>If the funding is for internal service providers for example for public open space, indoor or outdoor sport, community buildings, voluntary sector or public art, the relevant contacts are alerted to fact that the funds have been received.</p>
 <p>Projects discussed with Parish Councils/ UCFs</p>	<p>The Community Partnerships Officer is advised that the funding has been received and the officer advises the relevant Parish Council or Urban Community Forum.</p> <p>If potential projects have previously been considered by colleagues, these can be revisited in consultation with the parish or UCF.</p> <p>If no proposed project is available the Parish or UCF is encouraged to liaise with relevant officers to explore options that meet the terms of the S106 agreement.</p> <p>This may be because the S106 agreement is more generic in nature.</p> <p>If a project identified at the time the S106 was prepared is no longer required or a different project is now the priority a deed of variation can be negotiated with the developer, but in the event the developer refuses the funding may have to returned.</p>
 <p>Project agreed</p>	<p>Once a project has been agreed by the Parish or UCF a Request to Spend Form can be completed.</p>

 <p>Request to Spend Form</p> <p>↓</p>	<p>The request to spend form is used to assess the proposed project against the terms of the S106, which is a legal agreement between the Local Planning Authority and the developer.</p> <p>The form provides sections for the promoter to justify the spend on the proposed project using the S106 agreements specified (more than one S106 agreement can be used for a single project if the terms of the S106 match the purpose of the spend), ideally with quotes for the works.</p> <p>Guidance notes on what S106 funding can and cannot be spent on has been previously been provided to Parish Councils and UCFs by the Community Partnerships Officer.</p>
 <p>Decision</p> <p>↓</p>	<p>If the funding requested exceeds £50K, this requires approval by Cabinet.</p> <p>If the proposed funding is below £50K the request can be delegated to the Assistant Director of Planning and Development.</p>
 <p>Funds released</p> <p>↓</p>	<p>Once the Request to Spend has been agreed the funding can be released. The S106 Monitoring Officer informs Finance to make the transfer</p>
 <p>Records updated on Arcus</p> <p>↓</p>	<p>The S106 Monitoring Officer updated the records in respect of the transfer of funds using the Arcus software.</p> <p>This process is repeated until the S106 has been fully spent.</p> <p>If funds are not spent by agreed timescales clawback clauses apply and money is returned to developer.</p>

	<p>The end of the process is when the S106 has been fully spent/implemented or any remaining funds have been returned to the developer.</p> <p>The S106 Monitoring Officer includes the information in the annual Infrastructure Funding Statement</p>
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**Key to Process Map Symbols used**

Symbol	Description
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