

Title of Report:	Section 106 Scrutiny Review Task Group Report	Item 14
Report to be considered by:	Executive	
Forward Plan Ref:	EX0828	

Scrutiny Report to Executive

Section 106 Scrutiny Review Task Group Report

**Jointly undertaken by
West Berkshire Council's Select Committees**

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Supporting Information

Background

The Environment and Public Protection Select Committee established a cross cutting review to consider Section 106 agreements. The review involved Members from all four Select Committees, and was politically balanced. Although initially set up by this Select Committee, it was regarded as being undertaken by all Select Committees jointly, and reported to all four of them equally.

The Scrutiny Review Task Group was established because Members and developers had expressed concern about how West Berkshire Council handles Section 106 Legal Agreements. The Council had also failed to meet Governments performance targets to determine major applications.

All 4 Select Committees have considered the attached report and the Executive is asked to accept the recommendations of the Section 106 Scrutiny review Task Group.

Appendices

Appendix 14 - Section 106 Scrutiny Review Task Group Report



**Section 106 Scrutiny Review
Task Group Report**

Executive Summary and Recommendations

Summary

On 23rd September 2003, the Environment and Public Protection Select Committee resolved that "...a cross cutting review be set up to consider Section 106 agreements. This review would involve Members from all four Select Committees, and would be politically balanced. Although initially set up by this Select Committee, it would be regarded as being undertaken by all Select Committees jointly, and would report to all four of them equally."

The scrutiny review Task Group was established because Members and developers had expressed concern about how West Berkshire Council handles Section 106 Legal Agreements (S106). The Council has also failed to meet Governments performance targets to determine major applications.

The Task Group reviewed the process by which Planning Obligations, or Section 106 agreements, are negotiated and enforced.

Essentially, it was the job of the Task Group to enquire how the process was working at the moment, whether it is resulting in the best value for West Berkshire, and if this is not the case, how that objective could be reached.

Recommendations:

Recommendation 1

- (a) **The creation of a Section 106 Officer.**
- (b) **That the Section 106 Officer should be self-funding.**
- (c) **That the Section 106 Officers duties should include:**
 - I. **working with planning officers to negotiate with developers on contributions;**
 - II. **co-ordinate the production of legal agreements;**
 - III. **collection, distribution and monitoring contributions;**
 - IV. **work with the Planning and Legal Departments to encourage developers to produce draft S106 agreements.**
- (d) **That the S106 Officer is placed within the Planning Department and reports directly to the Head of Planning and Transport Strategy.**

Recommendation 2

That each Select Committee nominates a Member to a group that will hold regular meetings with the Section 106 Officer to discuss and monitor progress.

Recommendation 3

Scheduled meetings, chaired by the Section 106 Officer, are held between Planning, Legal, Education, Community Care and Housing, Highways and Countryside Departments, as well as other departments as required, to provide regular liaison on the progress of applications.

Recommendation 4

That the Council makes the production of the Supplementary Planning Guidance for Developer Contributions an immediate priority.

Recommendation 5

That the Supplementary Planning Guidance acknowledges the Council's commitment to provide affordable homes throughout the district.

Recommendation 6

That the Council encourages Parish and Town Councils to consider planning issues and infrastructure requirements when producing Town Council and Parish Plans.

Recommendation 7

That pre application meetings be arranged between officers and developers on all major applications or, when appropriate, prior to any application being submitted to discuss and resolve, if possible, any section 106 requirements. Ward Members will be given the opportunity to attend these meetings.

Developers should be encouraged to produce draft S106 agreements following these meetings.

Recommendation 8

The facility should be made available within the new Agresso system to allow any S106 contribution to be tracked by the planning application number. Planning and Finance liaise to find the best method of achieving this.

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Task Group Membership:

Chairman	Councillor Keith Chopping
Councillor	Brian Bedwell
Councillor	Billy Drummond
Councillor	Denise Gaines
Scrutiny Officer	David Cook

1. INTRODUCTION

- 1.1 The Environment and Public Protection Select Committee considered its work programme in September 2003; discussions highlighted a desire to review West Berkshire Council's procedures in dealing with Section 106 Legal Agreements (S106). Concern had been raised by Members and developers about the time taken to process S106 agreements, that the Council was failing to meet the full potential of contributions, that there was poor control and communication and the process had insufficient ownership.
- 1.2 The Select Committee resolved that as the issues involved cut right across the Council's administrative structure and had implications for all four directorates, Members felt a cross cutting review should be established to consider S106 legal agreements. It was agreed that the membership, of the Task Group, would comprise representatives from all four Select Committees, and would be politically balanced. Although initially set up by the Environment and Public Protection Select Committee, it would be regarded as being undertaken by all Select Committees jointly, and thus report to all four of them equally. Subsequently the Community Care and Housing, Strategy and Commissioning and Children and Young People Select Committees endorsed the establishment of a cross cutting Task Group.
- 1.3 So why do we have developer contributions? Developer contributions (planning obligations), commonly known as Section 106 agreements, enable local authorities to enhance the quality of a development and ensure that any adverse effect a development may have on the local community would be mitigated. These agreements may allow planning permission to be agreed which may otherwise have been refused (Government policy as set out in DOE Circular 1/97). It is important to remember that this does not equate to planning permission being bought by the addition of developer contributions.
- 1.4 To help the Council secure benefits to the community from developer contributions Supplementary Planning Guidance (SPG) is being updated. The SPG is a set of documents, which sets out the Council's approach to the provision of developer contributions. Planning obligations continue to be considered on their merits, however it is recognised that similar developments create similar impacts that need to be negotiated in a consistent way. The SPG gives this consistency by giving clear guidance on the type and scale of contributions that are expected by the Council.
- 1.5 The production of S106 legal agreements, on major applications, has attracted considerable criticism due to the time taken in producing the final agreement. The negotiation and production of these agreements can be lengthy and resource intensive. As current arrangements for producing and negotiating agreements currently lies with Planning Officers, the Legal Department and other departments requesting contributions, there have been problems with co-ordination and monitoring of the agreements.
- 1.6 The additional pressures placed on officers to speed up the production of S106 agreements has possibly resulted in the Council not being able to fully benefit from contributions being made by developers. This loss of potential funding needs to be addressed.
- 1.7 Currently the monitoring and collection of developer contributions is uncoordinated. At the moment the Legal Department is seen as the agent responsible for the collection of funds. Once funds have been sent to the Legal Department they are passed to the accountancy department to be placed into a holding account until the funds are required. Both departments inform officers that the funds have arrived. It is then for officers to spend the money or initiate projects in accordance with the legal agreements.

2. SCOPE OF THE REVIEW

- 2.1 The Task Group agreed that the main focus of the review would be to examine the process by which developer contributions, or Section 106 legal agreements, are negotiated, created and enforced.
- 2.2 Essentially, it was the job of the Task Group to enquire how the process is currently working, whether it is resulting in the best value for West Berkshire, and if this is not the case, how that objective can be reached.
- 2.3 To achieve its objectives the Task Group decided to focus on the following areas:
- The process by which needs are identified that require contributions through Section 106 agreements.
 - The process of negotiation with developers.
 - The preparation of agreements and the length of time taken in their preparation.
 - The methods by which payments are collected and recorded.
 - The methods of recording the expenditure of receipts from Section 106 agreements.
 - The implications of the Government's proposals for reforming and improving Section 106 agreements, including the ability to establish an optional planning charge as an alternative to negotiated planning obligations.
 - How the Council might ensure that it raises the correct level of funding from Section 106 agreements.
 - Whether it would be advisable for the Council to set up a Section 106 Department, and if so, whether such a department could be funded from Section 106 receipts.
- 2.4 The Task Group held its meetings in private and the minutes were restricted in circulation, as it was felt that this type of inquiry required witnesses to be able to speak candidly to Members. The group has reported back to the four Select Committees and decided that its findings would be presented to the Select Committees prior to seeking Executive approval.

3. EVIDENCE CONSIDERED

- 3.1 During their deliberations the Task Group considered evidence from a variety of sources and are grateful for the help they received. Details of the evidence gathered are outlined below on a meeting to meeting basis.

Meeting 1 - 7th January 2004

- 3.2 At its first meeting the Task Group nominated Councillor Keith Chopping as Chairman and Councillor Billy Drummond as Vice-Chairman. The group agreed their terms of reference as laid out in section 2 of this report.
- 3.3 The Head of Planning and Transport attended this meeting to provide the group an insight into Section 106 Legal Agreements (S106 agreements). Members were informed that S106 agreements played an integral part of the planning process and contributed to the delay in major planning approvals. It was suggested to the group that they should consider how any recommendations could improve the efficiency and speed of the planning process. It was envisaged that the number of agreements would triple once the Supplementary Planning Guidance (SPG) was adopted.
- 3.4 Whilst discussing the impact of S106 agreements had on planning performance figures there was agreement that a more efficient manner of processing agreements was required. After the SPG was adopted there would be an increase in the number of S106 agreements that if not dealt with efficiently would dramatically reduce performance.

Meeting 2 – 22nd January 2004.

- 3.5 The Council's Head Legal and Electoral Services attended this meeting and following a wide-ranging conversation the group noted that it would be possible to introduce a dedicated S106 officer from current S106 revenue, however it was important to note that more than one officer worked on agreements. It was felt that a tightening of current procedures was required as under current arrangements the legal team were only notified of the requirement to produce a legal agreement after the application had been agreed at committee. There was usually another delay in finalising the agreement when relevant information was not forthcoming. The group was also informed that unilateral undertakings may improve performance, however it would also leave the Council in a less favourable position when negotiating agreements.
- 3.6 With regards to the problems facing West Berkshire Council the group decided that they would investigate the possibility of introducing a tariff system and a dedicated section 106 team. It was agreed that both systems posed unique problems: a dedicated S106 team would be required to be self funding and thus the revenue from agreements would have to be increased. Introducing a tariff system would enable the Authority to increase the revenue from S106 agreements, however there was uncertainty as to its legality. Proposed Government guidance on a tariff system had been allowed to slip, however a recent consultation exercise suggested that a tariff system could be introduced down to a one-house development.
- 3.7 Arising from the previous meeting the group discussed how other Authorities dealt with of S106 agreements. It was noted that there were a variety of measures being implemented: unilateral agreements had been introduced; pre-application meetings were being held and applicants were being encouraged to prepare draft agreements.

Meeting 3 – 6th February 2004.

- 3.8 During the course of this meeting the Task Group took representation from the Council's Development Control Manager and Planning and Transport Policy Team Leader.
- 3.9 The Development Control Manager informed the group that it was important that any new SPG policy clearly laid out exactly what the Council wants, why it was required and that the legality can be proved then developers would have little room for manoeuvre. The group was informed that the first priority of improving the current system was implementing Supplementary Planning Guidance. Once again officers were pleased to hear that the group were looking at the possibility of a S106 officer, it was felt that this officers time would be best used as a project manager with negotiations remaining with planning.
- 3.10 The group heard how developing the Supplementary Planning Guidance in conjunction with the development of Parish and Local Plans would improve the Councils position with regards to S106 agreements.
- 3.11 Officers would also find it valuable to be able to have without prejudice outlined draft agreements that could be used at the pre negotiation stage.
- 3.12 The group was advised that it was vital that the next Local Plan was well produced. Although the next version of the Local Plan would go further than its predecessor, it was important to ensure that it did not leave loopholes that could be exploited.
- 3.13 Recent research undertaken by the policy team had shown that it was possible to expand the breadth of S106 agreements, for example it would be possible to seek S106 contributions on a single property development.

Meeting 4 – 27th February 2004

- 3.14 During the course of this meeting the Task Group took representation from West Berkshire's Countryside and Environment, Highways and Education Departments.
- 3.15 The group was informed that Countryside and Environment initiated S106 agreements for developments of 10 dwellings or more, these agreements contributed to informal and formal recreation use. The amount of contribution requested from developers is calculated on a formula that considers the cost of purchasing land, landscaping the land as well as maintenance costs for 20 years.
- 3.16 Current policy regarding commercial developments was under review as currently only certain commercial developments were subject to S106 agreements. As part of the review of SPG the Authority would consider asking for a contribution based on a ratio of the number of employees per floor space.
- 3.17 The group was informed that the department would welcome the introduction of a S106 officer if that officer could improve interdepartmental consultation and ultimately the speed of producing agreements.
- 3.18 During their interview with the Council's Highways department representative the group discussed how S106 contributions were sought to mitigate any adverse impact an application may have on highways and to ensure that planning policy guidance 13 is adhered to.

- 3.19 An agreement is sought on developments of 6 dwellings or more with a minimum charge of £750 per bedroom. The formula used could be introduced for single dwelling developments, however any contributions would have to be placed into a pot for future works in the area. It was felt that introducing this system might be seen as an additional form of taxation. Certain commercial developments were also subject to S106 contributions with current and past usage being important considerations during negotiations.
- 3.20 The Task Group also interviewed a representative from the Council's Education department who outlined the system used to calculate S106 contributions. Education had requested that planning officers consult with them on developments of 5 dwellings or more. The Task Group was informed that the department had considered reducing this to 1 dwelling, however it was not introduced as it was felt that the extra workload would outweigh any benefits.

Meeting 5 – 17th March 2004

- 3.21 During the course of this meeting the Task Group took representation from a local Housing Association and a property developer.
- 3.22 The group was informed that with regards to affordable housing S106 agreements were important. When it came to acquiring land housing associations found it difficult to compete with commercial developers. Due to PPG3 and Circular 6/98 contributions to affordable housing could be requested as a material planning condition.
- 3.23 Discussion turned to financial constraints placed on Housing Associations where it was explained that the rental stream from a typical property was not enough to cover the costs of development. Even after one took into account funding from Housing Associations and the allocation of land from the Council a shortfall still existed. It was suggested that the Council could introduce guidance to use S106 contributions to form its own social housing fund that could be used to alleviate this funding shortfall.
- 3.24 The Task Group also received the views of one of the regions major property developers. The developer felt that the present production of S106 agreements was very slow and that it was not very transparent in how contributions had been calculated. It was pointed out that in most cases all S106 contributions were know prior to Planning Sub-Committee. Developers, therefore found it frustrating that there is usually such a delay in producing the final S106 agreement.
- 3.25 To help alleviate this problem there had been occasions when his company had approached West Berkshire's Legal Department offering to draft the legal agreement. The response received by West Berkshire officers was that drafting S106 agreements had to be done by the Council itself and cannot commence until Legal had received instruction from the appropriate Planning Officer.
- 3.26 Examples of excessive delays in the production of S106 agreements were discussed and suggestions for improvements were made. It was felt that the appointment of a S106 officer who was charged purely for the production and over-seeing of all S106 agreements would be advantageous. Developers would also find it easier to tender for sites for specific areas if the amount of contribution required was known from day one. To achieve this a formula could be introduced based on a per dwelling or per bedroom basis, further minor contributions could be agreed on a site to site basis.

Meeting 6 – 8th April 2004

- 3.27 During the course of this meeting the Task Group took representation from Southampton City Councils Planning Agreements Officer and the Chief Executive of the Greenham Common Trust.
- 3.28 The group were interested in hearing the views of Greenham Common Trust Chief Executive as he had experienced S106 agreements as both an applicant and an employee of the Council. He stated that his views had changed since he was on the other side of the fence. He felt that there were too many S106 agreements and that in his opinion about a third could be dealt with through planning conditions. He did concede that developers were more likely to hold to requirements laid out in legal agreements.
- 3.29 When questioned about his views on speeding up the process the group heard how he felt that the Council had to be careful not to be seen to be pre-judging applications when producing draft agreements based on the Local Plan. He went on to say that, as legal fees were paid by the developer, enhanced fees for 'fast tracking' agreements would be useful. The use of tariffs, he felt, was a fair approach and could be levied on a single dwelling.
- 3.30 The Task Group heard how in Southampton, the Committee agreed applications subject to conditions to be met. The Southampton officer stated that he wanted to improve the process by providing the Committee with the S106 agreement when it was considering the planning application. In the longer term, the aim was to have the S106 agreement enclosed with the planning application. Planners deal with the planning issues, not S106 staff. Southampton's S106 officers post was half funded through affordable housing grant and half through the "monitoring" charge levied on each S106 agreement. He has some input before applications are considered by the Committee, ensuring that planners keep to agreed timescales. After the Committee meetings, his role involves maintaining an up-to-date list of the S106 agreements to be produced.
- 3.31 Southampton has outsourced the production of the agreements since 2000/01. It uses a solicitor in London, a local solicitor and some use of in-house staff (mainly for Housing Association projects); the more complex the agreement, the more likely the Council was to use the solicitor in London. The legal fees were considerably higher following outsourcing than before, however developers seemed happy to meet this increased charge as it improved the system.
- 3.32 The main elements of the S106 officer were to instruct the solicitor to draft the S106 agreement (based on heads of terms) and it is left to the solicitor to contact the appropriate heads of service to get detailed instructions. Increasingly, the S106 officer does the chasing to ensure things are kept on track. He issues planning permission once informal agreement has been signed. He checks that where stage payments are due that they are secured. Payments are sent directly to him so that he can keep an eye on what was going on. In relation to spending the income received, he checks that: there are clear plans to spend and an agreed timetable, so it can be spent according to plan.
- 3.33 He explained that the S106 post was within development control and that he felt this was the logical place to be. He was also asked about the S106 contribution funding of the post. Southampton currently receives around 70-80 applications per year. Each application was charged £140 per head of term. There is one planning sub-committee meeting per month. There is a development forum on a quarterly basis – developers appear happy with the monitoring charge.
- 3.34 The group inquired whether it was felt that developers could be responsible for drawing up their own S106 agreements as a means of speeding up the process; he did not feel that this would help. He

described the very effective arrangements in Basingstoke and Deane Council. Here, there was a meeting every three weeks, which brought together the relevant people from each service. This meeting takes place on Wednesday; by Friday of the same week the outline planning requirements are sorted out.

Meeting 7 – 30th April 2004

- 3.35 During the course of this meeting the Task Group took representation from West Berkshire Council's Development Control Manager and the Head of Legal and Electoral Services.
- 3.36 The group discussed which department of the Authority any proposed S106 officer should be placed. It was felt that there were equal benefits in placing the officer in either Legal or Planning. The Legal department would benefit as the proposed officer would be able to ensure they are involved in the preparation of agreements at an earlier stage, whilst the officer would benefit from working with planning as they would be more aware of forthcoming applications and possible negotiations
- 3.37 The Task Group also questioned officers about the proposals that such an officer could be self-funding. Members heard that Guildford currently charged to monitor legal agreements, which was seen as a possible way of funding the S106 officer, as this would be one of the roles the new post would undertake.

Meeting 8 – 20th May 2004

- 3.38 During the course of this meeting the Task Group took representation from the Council's Group Accountant, Education Assets Manager, Highways Project Manager and Grounds Maintenance Manager.
- 3.39 The group received an overview on what happens to funds raised by legal agreements once they have been collected and were informed that the current accounting system was due to be replaced by AGRESSO at the end of 2004.
- 3.40 The discussion was opened to the group to give their account on the accountancy process. The group heard how the highways department only commences works once all the funds for a specific project had been collected. If the income collected was not enough to cover the costs of a project then the money is placed into a collective pot to allow works to be undertaken in that area. The other officers confirmed that they also followed a similar system. When a project overspends the Council had to pick up the extra costs.
- 3.41 When asked what could be done to help improve the current system the Task Group was informed that from a highways perspective it would be useful for a section 106 officer to help with negotiations. There is currently only 1 highways officer to negotiate with developers and if he is at an appeal then there is a delay on other projects. If a S106 officer was to help with negotiations officers felt that there would need to be regular contact with individual departments to ensure the Council has a strong negotiating position.

Meetings 9, 10 and 11.

- 3.42 The Task Group met to discuss their draft recommendations and the draft report.

4. CURRENT POLICY DEVELOPMENT

- 4.1 The Task Groups recommendations have been developed in conjunction with current policy development. It is therefore important to acknowledge work currently been undertaken.
- 4.2 Policy for planning obligations was set out in the adopted West Berkshire District Local Plan (OVS.3). The Supplementary Planning Guidance supporting this policy was being developed and remains in draft form pending the recommendations of this scrutiny Task Group. Officers were also monitoring current developments in Government policy.
- 4.3 The Government published proposals for revising the planning obligations system last year but the new approach had yet to be introduced. Consultants had been appointed to draft guidance for the new system. The Council has offered to be a case study for the consultants and are currently awaiting a response.

5. CONCLUSIONS AND RECOMMENDATIONS

- 5.1 In setting out our conclusions and recommendations the Task Group wish to thank all the officers and witnesses who gave evidence. The Task Group also wish to thank all the support received from officers in the production of additional material that has aided deliberations. From the outset it became clear that the most pressing problem was co-ordinating and impetus to S106 matters through negotiation, creation and implementation, which has affected overall performance figures for the Planning Department. There was significant agreement that the system required improvement to ensure that planning decisions were not unduly delayed due to the production of legal agreements and to obtain improved contributions for the community of West Berkshire as a whole.

Recommendation 1

- a) **The creation of a Section 106 Officer.**
 - b) **That the Section 106 Officer should be self-funding.**
 - c) **That the Section 106 Officers duties should include:**
 - I. **working with planning officers to negotiate with developers on contributions,**
 - II. **co-ordinate the production of legal agreements,**
 - III. **collection, distribution and monitoring contributions,**
 - IV. **work with the Planning and Legal Departments to encourage developers to produce draft S106 agreements.**
 - d) **That the S106 Officer is placed within the Planning Department and reports directly to the Head of Planning and Transport Strategy.**
- 5.2 Throughout this investigation the benefits of recruiting a section 106 officer has been raised on a number of occasions. Initially there was a feeling that the S106 officer role would be a monitoring and co-ordinating one. As the review progressed it became clearer that it would also be beneficial to have an officer who could also negotiate, in conjunction with planning officers, legal agreements on behalf of the Council.
- 5.3 When the Council adopts its new Supplementary Planning Guidance it is envisaged that the number of legal agreements will dramatically increase. Without a dedicated officer there would be increased pressure on existing officers that would ultimately result in further delays to planning decisions and missed opportunities to obtain contributions to improve the quality of life of those who live and work within West Berkshire.
- 5.4 To ensure that the Council recruits an officer who is capable of managing and co-ordinating the process from start to finish the creation of this post should be at Local Government Grade L. This post should ensure a well managed and co-ordinated approach to developer contributions and help remove current resource pressures being placed on Planning and Legal.
- 5.5 The Task Group felt it was important that the Authority levy a charge to recover resources involved with the production and continued support of legal agreements and therefore recommend that the S106 post be self-funding. It is envisaged that this matter would be addressed by the Head of

Planning and Transport; the Task Group would recommend that consideration be given to the following suggestions in obtaining funds for a S106 officer:

- A set charge per agreement.
- A set charge per item in the agreement.
- A percentage of the agreement.
- Some other method.

- 5.6 Although the S106 officers job description will need to be finalised by officers there was a number of roles that the Task Group wished to be included. As already mentioned the group felt that it was important to have an officer who would feel comfortable negotiating agreements with developers. This role would take into account the Council's position and requirements, once discussions with officers from relevant departments had been undertaken. It would also result in a central point of contact for developers and enable them to produce, without prejudice, draft agreements. Once formal negotiations are undertaken the S106 officer should be able to speed up the process and identify potential problems.
- 5.7 Another important role would be the ability to co-ordinate the production of legal agreements. The officer should have the powers to ensure that the legal agreements are developed in a timely manner. When examining ways to improve legal agreements the S106 officer should also consider the occasional use of external solicitors and the benefits of producing draft legal agreements.
- 5.8 The S106 officers should also collect, distribute and monitor financial contributions. The officer should be the agent for the collection of funds. The S106 officer would also be able to monitor key triggers and ensure funds are gathered in a timely manner. These triggers can be picked up by the use of a monitoring database or via site visits of enforcement officers.
- 5.9 It was agreed that the S106 Officer would be best placed within the Planning Department and report directly to the Head of Planning and Transport Strategy. The reasoning behind this decision was that the officer would have greater access to information on developments and would benefit from working with planners. Although a close working relationship with the Planning Department was required it was also felt that the S106 Officers would require a degree of impartiality and thus the Task Group recommends that this post should report directly to the Head of Planning and Transport Strategy.
- 5.10 The Task Group also felt that the S106 Officer should work with the Planning and Legal Departments to encourage developers to produce (without prejudice) draft S106 agreements. These agreements should be encouraged following meetings between the Council and developers (see recommendation 7). Encouraging the developer to produce such agreements would be in their best interest, as it should speed up the application procedure.

Recommendation 2

That each Select Committee nominates a Member to a group that will hold regular meetings with the Section 106 Officer to discuss and monitor progress.

- 5.11 As the creation of a S106 officer would be a new post, the group felt that the position would benefit from regular meetings with Members to discuss progress. It is envisaged that these meetings should be informal and allow the officer to discuss any hurdles that have been encountered and ways the post may further be developed.

- 5.12 As this post is to be self-funding it is important that Members are able to keep under review the charge that would be required to support this role. This regular meeting would enable the position to evolve into a role that offers value for money for the Council and developers.

Recommendation 3

Scheduled meetings, chaired by the Section 106 Officer, be held between Planning, Legal, Education, Community Care and Housing, Highways and Countryside departments, as well as other departments as required, to provide regular liaison on the progress of applications.

- 5.13 During their deliberations the Task Group heard how in Basingstoke and Deane Council there were regular meetings which brought together relevant people from services who contributed to the S106 process. The meetings took place on Wednesdays and by Friday of the same week the outline planning requirements were sorted out.
- 5.14 It was felt that holding regular meetings, which provided liaison between departments, would be beneficial. To start with these meetings should be held to discuss the progress of applications. The S106 officer should then investigate the Basingstoke and Deane model to see if its implementation would be beneficial to West Berkshire Council.

Recommendation 4

That the Council makes the production of the Supplementary Planning Guidance for Developer Contributions an immediate priority.

- 5.15 The importance of Supplementary Planning Guidance can not be understated. The new policy can contribute to a range of community benefits, for example local transport initiatives, education, affordable housing to name a few.
- 5.16 At the time of the S106 Task Group deliberations the Planning and Transport Task Group had suspended its work on the production of the Council's SPG to wait for the outcome of the S106 Task Group and recent Government consultation.
- 5.17 Such is the importance of producing SPG the Task Group sent a letter (appendix 1) to the Leader of the Council requesting that the production of the Council's SPG be made a priority.
- 5.18 The Task Group also felt that the Planning and Transport Task Group should consider additional items for which contributions are sought, for example a development may result in increased pressures being placed on the Library service which should be alleviated by developer contributions.

Recommendation 5

That the Supplementary Planning Guidance acknowledges the Council's commitment to provide affordable homes throughout the district.

- 5.19 When the Council adopted its Corporate Plan one of the priorities was to increase the provision of affordable homes throughout the district. The Task Group supports this Corporate priority and would recommend that provision of affordable housing be acknowledged in the Supplementary Planning Guidance.

- 5.20 It is essential that clear articulation is given to how the Council is achieving the provision of affordable homes throughout the district and recognises the split between provision and contribution as well as large site and small site development.

Recommendation 6

That the Council encourages Parish and Town Councils to consider planning issues and infrastructure requirements when producing Town Council and Parish Plans.

- 5.21 The Council is currently working with Parish and Town Councils with their development of Parish and Town Plans. The Task Group would like officers to encourage Parish and Town Councils to consider planning issues and infrastructure requirements when producing these plans. Such information will be of assistance to the Council when considering planning applications and planning policy development set against the context of national guidance and relevant legislation.

Recommendation 7

That pre application meetings be arranged between officers and developers on all major applications or, when appropriate, prior to any application being submitted to discuss and resolve, if possible, any section 106 requirements. Ward Members will be given the opportunity to attend these meetings.

Developers should be encouraged to produce draft S106 agreements following these meetings.

- 5.22 As the production of S106 agreements can be a lengthy process the Task Group wished to see a system put in place to try and speed up the process. It was felt that holding pre-application meetings with developers, officers and ward Members would help resolve any potential problems that may delay the production of any agreement.
- 5.23 Pre-application meetings are currently held on an ad hoc basis usually when major developments require complex S106 agreements. The Task Group requests that this policy is formalised and becomes standard practice.

Recommendation 8

The facility should be made available within the new Agresso system to allow any S106 contribution to be tracked by the planning application number. Planning and planning financial control liaise to find the best method of achieving this.

- 5.24 The Task Group were concerned that the current accountancy system, in relation to S106 payments, did not have sufficient control mechanisms in place that enabled various departments to track the progress of contributions in relation to specific developments.
- 5.25 As the Council are due to introduce a new accountancy system (Agresso) it was felt that this would be an ideal time to introduce a mechanism which would allow a contribution to be linked to the specific development via a reference code. As all developments are allocated a planning application number this number should be added to the new accountancy system as a means of achieving this linkage.

5.26 The database within the Planning Department needs to interface either virtually or actually so that data can be tracked and integrated.

11th June 2004

Cllr Royce Longton

S106 Task Group

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Dear Royce

Section 106 Scrutiny Review Task Group – Supplementary Planning Guidance.

As you know the Section 106 Task Group has been reviewing developer contributions and ways in which the Council can improve its current procedures. An important element to come out of the review is the development of Supplementary Planning Guidance (SPG) in support of developer contributions.

The task group will be making a recommendation that the production of such an SPG for is given an immediate priority. I understand that there is a Planning and Transport Task Group that is considering a range of Planning & Transport Policy related matters including SPGs. I also understand that the work on SPG was suspending pending the outcome of the S106 Task Group and recent Government consultation.

Given the importance of SPG the Task Group has requested that the Planning and Transport Task Group makes it a priority to produce the Council's SPG as soon as possible.

May I please request that you take this matter up?

Yours sincerely

Councillor Keith Chopping
S106 Task Group Chairman

S106 Task Group

Data

04/05/2004

- 'Major' Applications – 10 or more dwellings (net gain) or > 0.5 ha (1.25 acres) residential development site area
- over 1000m² of floorspace involved – either new build or change of use.
- 'Minor' Applications - Residential – between 1 and 9 dwellings
- Office / Research & Development / light industry development below the threshold above
- Heavy industry / storage / warehousing
- Retail, distribution and servicing
- Other minor development
- 'Other' applications – i.e. householder application, adverts, listed building and conservation area consents
Realistically not appropriate to impose s106 on vast majority of these applications

6. Calendar Year 2003

Type of Application	No.	S106 at present (%) (best guess)	S106 in future (best guess)	NOTES
major housing apps	34	100 %	As opposite	
major office / r & d / light industrial	2	100%	As opposite	
major heavy industry / storage / warehouse	4	100%	As opposite	
major retail / distribution / servicing	4	100%	As opposite	
All other majors	12	100%	As opposite	i.e. marina, cinema etc
SUB - TOTAL	56	56	56	
'minor' dwellings	255	20%	100%	Currently do not usually use s106 on developments of less than 5 dwellings
minor office / r & d / light industrial	16	0%	50%	This based on best estimate and proposed tariffs outlined on p13 in 'delivering investment from growth' revised draft Oct 2003
minor heavy industry / storage / warehouse	4	50%	20%	As above
minor retail / distribution / servicing	11	0%	20%	As above
All other minors	121	20%	10%	i.e school applications. S106 may cover Travel Plans or highway / cycle improvements
SUB - TOTAL	407	77	278	Large increase in s106's
7. TOTAL	463			

WITNESSES

The following witnesses attended meetings of the Task Group:

WBC Head of Planning and Transport.

WBC Head of Legal and Electoral Services

WBC Development Control Manager

WBC Planning and Transport Team Leader

WBC Group Accountant.

Representatives from WBC Countryside and Environment Department.

Representatives from WBC Highways and Engineering Department.

Representatives from WBC Education Department.

Representative from a Local Housing Association.

Representative from a Local Property Developer.

Southampton City Councils Planning Agreement Officer

Chief Executive of Greenham Common Trust