

Eden District Council
Overview and Scrutiny Committee
12 May 2022

S106 Planning Agreements Task and Finish Group

Portfolio:	N/A
Report from:	Assistant Director Development
Wards:	All Wards
OPEN PUBLIC ITEM	

1 Purpose

- 1.1 To update Members on the formation of the Task and Finish Group and the Terms of Reference.

2 Recommendation

It is recommended that Committee note the contents of the report.

3 Report Details

- 3.1 The first meeting of the Task and Finish Group took place on 26 April 2022. The Terms of Reference were considered and these are now attached as an Appendix for information.

4 Policy Framework

- 4.1 The Council has four corporate priorities which are:

- Sustainable;
- Healthy, safe and secure;
- Connected; and
- Creative

As approved in the Council Plan of November 2019.

- 4.2 Section 106 Agreements can be used to create planning obligations related to a range of issues potentially including all of the above priorities.

5 Consultation

- 5.1 Council officers and relevant portfolio holders will be consulted a part of the review process.

6 Implications

6.1 Financial and Resources

- 6.1.1 There are no financial implications from this report other than the staff time to support the Task and Finish Group which will be drawn from existing resources.

6.2 Legal

6.2.1 There are no legal implications arising from this report.

6.3 Human Resources

6.3.1 There are no human resources implications arising out of the proposal other than those in para 6.11

6.4 Environmental

6.4.1 There are no direct environmental implications from this report although any eventual finding of the work may have such implications.

6.5 Statutory Considerations

Consideration:	Details of any implications and proposed measures to address:
Equality and Diversity	No implications from this report
Health, Social Environmental and Economic Impact	No implications from this report
Crime and Disorder	No implications from this report
Children and Safeguarding	No implications from this report

6.6 Risk Management

Risk	Consequence	Controls Required
Members may not be fully aware of the work of the group	Some parts of the work could be unnecessary. The work of the group may not be taken into account in other considerations of the Council	Clarity on the work being carried out by consideration of the report and any future reports on the work

7 Other Options Considered

7.1 The Overview and Scrutiny Committee considered whether this work was a priority and agreed to include it in their programme. Consideration was given to not carrying it out. The latter was rejected in view of the importance of the potential benefits arising from a well-managed process.

8 Reasons for the Decision/Recommendation

8.1 To receive an update on the formation of the Task and Finish Group and the Terms of Reference.

Tracking Information

Governance Check	Date Considered
Chief Finance Officer (or Deputy)	N/A
Monitoring Officer (or Deputy)	N/A
Relevant Assistant Director / Director	DCE, 5 May 2022

Background Papers:**Appendices:****Appendix 1 – Terms of Reference****Contact Officer:****Fergus McMorro, Assistant Director Development**

Appendix 1

Terms of Reference

Title of Review	Section 106 Agreements
Group Membership	Cllrs Banks, Burgin, Holden, Lawson, Martin, Nicolson, Raine, Ryland, Simpkins, Wicks
Co-options	None
Specialist Officer(s)	Marianne Bastille, Richard Fox, Rebecca Harrison, Fergus McMorrow, Mark Whytock,
Supporting Member Services Officer	Karen Edmondson, Heather Donaldson
To which of the Council's objectives will this review contribute?	Sustainable, Healthy, safe and secure, Connected

Terms of Reference

Purpose of the Review (Aim)	To understand and review the current scope and process relating to Section 106 planning agreements/financial contributions applied by EDC, and to make recommendations to the O&S Committee, Cabinet and Council as required.
Main Elements of the Review (Objectives)	<p>To consider the monitoring and review work relating to the current process carried out to date in relation to the collection, monitoring, reporting, and spending of Section 106 finances;</p> <p>To work with the newly appointed officers to review critically the current process, examine best practice from elsewhere and make recommendations on how the process can be improved;</p> <p>To report findings and recommendations to O&S Committee for further consideration at Cabinet and Council, as required.</p>

<p>What is excluded?</p>	<p>The form and content of s106 agreements and basis upon which a s106 agreement may be required. Planning must determine whether a s106 agreement is required based on planning considerations, policy and the legal tests, then instruct legal accordingly. Legal are responsible for the drafting and negotiation of s106 agreements pursuant to planning instructions, via delegations to the Assistant Director Legal and Democratic Services and Assistant Director Development</p>
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Anticipated Outcomes of the Review

<p>Benefits of the Review</p>	<p>Through an increased awareness of the need for communication between Members,</p> <p>Officers and local councils, the Section 106 monitoring and contributions process will be made clearer and more transparent. This aspect of the review will be fed to all Councillors via the Task and Finish Group Members and through circulation of the final report to the Overview and Scrutiny Committee.</p> <p>A clear and known process for monitoring S106 Agreements and ensuring collection and allocation of monies and compliance with obligations.</p> <p>Identification and prioritisation of funds to be applied, reducing risk of repayment and enabling more efficient monitoring and enforcement of obligations secured under the local plan.</p>
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Risks and Implications

Risk Implications	Credibility of the Local Plan and achievement of policy objectives, planning permission compliance, reputational risk.
Legal Implications	There is a legal requirement placed through Regulation 121A and Schedule 2 of the Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019 (which exercises the powers of Part 11 of the Planning Act 2008) for the Council to publish an annual infrastructure funding statement.
Financial Implications	Financial risk of not claiming all of the monies owed to us in relation to planning agreements. Financial risk of repaying unspent sums within required timeframes.
Resource Implications	The monitoring of Section 106 planning obligations is costly and requires significant resource.