

**OVERVIEW & SCRUTINY COMMITTEE**  
**Tuesday 12 November 2024**

**\*PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: TASK AND FINISH GROUP ON SECTION 106 CONTRIBUTIONS – DRAFT SCOPING DOCUMENT**

REPORT OF THE SCRUTINY OFFICER

EXECUTIVE MEMBER: NOT APPLICABLE

COUNCIL PRIORITY: NOT APPLICABLE

**1. EXECUTIVE SUMMARY**

- 1.1 This report is to update Members on the progress towards establishing the Task and Finish Group to review the Section 106 (S106) process. It proposes that the core elements of the scope for the proposed group be endorsed including: the title, objectives of the review, the key lines of enquiry, timeframe and methodology.

**2. RECOMMENDATIONS**

That the Overview and Scrutiny committee:

- 2.1. Review and comments on the draft scoping document as attached at Appendix A.
- 2.2 Notes the Task and Finish Group Protocol 2020 as attached at Appendix B.
- 2.2. Endorse the principles of the review and approves consultation with Group Leaders to appoint members and a Chair for the Task and Finish Group.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1. To ensure that the final scoping document takes into account suggestions from Members and relevant officers.
- 3.2. To allow Members to be appointed to the Task and Finish Group.

**4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1. This report has been brought to the Committee prior to the appointment of any members and a Chair to the Task and Finish Group to allow for additional consultation with Members and relevant officers.

## **5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

- 5.1 Each Committee meeting includes the opportunity for Members to comment on and input to the Committee's programme of works.

## **6. FORWARD PLAN**

- 6.1. This report does not contain a recommendation on a key Executive decision and has therefore not been referred to in the Forward Plan.

## **7. BACKGROUND**

- 7.1. At the Overview and Scrutiny Committee meeting on Tuesday 3 September, Members agreed to investigate the effectiveness of S106 contributions at North Herts.
- 7.2. Prior to the adoption of the Local Plan in 2022, Councillors had concerns that S106 contributions were not being spent and allocations of money were not put into community and social infrastructure for existing and new development within North Herts. It should be considered whether another mechanism, such as a Community Infrastructure Levy (CIL), would deliver better outcomes for communities in North Herts prior to the adoption of the Local Plan.
- 7.3 However, with the Local Plan now being implemented, these concerns have been exacerbated amongst Councillors, local residents and other stakeholders, as development is taking place without appropriate levels of community infrastructure (such as, but not limited to Education, Healthcare and Highways Infrastructure) in order to mitigate the negative impacts of development and provide services to new and existing communities and residents in North Herts.
- 7.4. Regular updates on S106 had been requested at Planning Control Committee, but a further in-depth look at the overall process by the Overview and Scrutiny Committee would be worthwhile.
- 7.5. Following discussions with the Chair and Vice Chair of the Committee, Cllr Muncer volunteered to develop the scoping documents for a potential Task and Finish Group to investigate Section 106 (attached as Appendix A).

## **8. RELEVANT CONSIDERATIONS**

- 8.1. Paragraph 6.2.7(u) of the Council's Constitution enables the Overview and Scrutiny Committee: To appoint time limited task and finish groups to undertake detailed scrutiny work and report back to the Overview and Scrutiny Committee to make recommendations to the Cabinet/Council/relevant Executive Member.
- 8.2. In 2020 the Committee approved the Task and Finish Group Protocol (attached at Appendix B) which sets out the process to be followed for the establishment of task and finish groups. Core parts of the protocol are as follows:

- 8.3. "2.4: The committee will ask the Committee, Member and Scrutiny Manager to scope any topics which it has chosen. The committee will indicate which general issues the scope should cover."
- 8.4. "2.5: The draft scope shall include (but not be limited to) consideration of the following:
- The terms of reference/purpose for the task and finish group
  - Setting boundaries for the review, what will and will not be included in the review
  - The nature of the expected outcomes, as far as this is practicable
  - Its timeframe and availability of key officers
  - How it links to the council's priorities, core business, other activities or to the interests of the people of North Hertfordshire
  - Potential witnesses and community engagement
  - Key questions, including costs
  - Environmental issues
  - Briefing arrangements
  - Whether any visits might be included in the review
  - Its membership, including the possibility of co-opting outside members
  - The relevant Executive Members
  - The lead officer
  - The support officer"
- 8.5. "1.6. A lead officer will be appointed by the authority and will act as support to ensure only that factual/legal guidance is given to and discussed by the Task and Finish Group."
- 8.6. "1.9. All drafts of the scope, report and recommendations will be shared with the lead officer/Leadership Team so that a parallel report can be produced by them in whatever format they see fit. This is crucial to ensure that informed decisions are taken that take into account the advice and guidance of senior officers.
- 8.7. "3.1 The Committee, Member and Scrutiny Manager will contact the Group Leaders seeking nominations for the task and finish group. The principle of political proportionality will apply inasmuch as this is possible within a small group. Attempts should be made to involve smaller parties where they otherwise would not be entitled to a seat. Members of a Task and Finish Group do not have to be a Member of the Overview and Scrutiny Committee."
- 8.8. "2.9: The Chair of the Task and Finish Group will finalise the scope in conjunction with the Chair of the Overview and Scrutiny Committee."
- 8.9. The Corporate Peer Action Plan 2020 at part 57 recommends that the Committee "Use the task and finish programme to support early engagement and involvement with policy making."

## **9. LEGAL IMPLICATIONS**

- 9.1. Overview and Scrutiny Committees were established by the Local Government Act 2000 (s.9) (amended by the Localism Act 2011).

- 9.2. Section 6 of the Council's Constitution set out the Council's obligations with regard to scrutiny.
- 9.3. A task and finish group is an informal group, which undertakes scrutiny work, but is not covered by legislation. Section 6.2.7(u) of the Council's Constitution, however, permits the Overview and Scrutiny Committee to: appoint time limited task and finish groups to undertake detailed scrutiny work and report back to the Overview and Scrutiny Committee to make recommendations to the Cabinet.
- 9.4. S.106 of the Town and Country Planning Act 1990 provides that planning obligations (commonly known as s106 Agreements) can be imposed by local authorities upon developers to make a development proposal acceptable, that otherwise would not be acceptable. They are usually focussed on site specific mitigation on the impact of a development and therefore it is important that s106 Agreement contributions are spent as intended. The work of the task and finish group is assessing the effectiveness of s106 Agreement contributions is in keeping with the spirit of the Town and Country Planning Act 1990.

## **10. FINANCIAL IMPLICATIONS**

- 10.1. As detailed Section 14, Human Resource Implications, the wider the reach, the more significant the impact on officer time in terms of report writing, data analysis and meeting attendance. Given recent funding pressures and the consequent reduction in officer numbers, significant requests to support scrutiny work will limit officer time available to spend on activities such as identifying and delivering cost reductions, income generation and project management.
- 10.2. Although not significant, a committee attendance allowance of £25.17 per officer per evening meeting is payable to officers in attendance. This is in addition to providing time off in lieu, or overtime as an alternative.
- 10.3. It is proposed that to limit the financial implications and impact on other workloads associated with this review that meetings be conducted during normal working hours and, where possible, are held remotely.

## **11. RISK IMPLICATIONS**

- 11.1. Effective overview and scrutiny of policy, administrative, service delivery and the scope and time frame for scrutiny interventions should be considered in the light of the potential impact of inappropriate scrutiny leading to decisions not being made, inappropriately made, or not made at the right time.

## **12. EQUALITIES IMPLICATIONS**

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

- 12.2. There are no known equalities implications or requirements that apply to this report. Effective scrutiny is an essential part of ensuring that local government remains transparent, accountable and open which ensures that the delivery of public services benefits all aspects of the community, where practical.

### **13. SOCIAL VALUE IMPLICATIONS**

- 13.1. The Social Value Act and “go local” requirements do not apply to this report.

### **14. ENVIRONMENTAL IMPLICATIONS**

- 14.1. There are no known Environmental impacts or requirements that apply to this report.

### **15. HUMAN RESOURCE IMPLICATIONS**

- 15.1. The widening of the reach of scrutiny reviews has the potential to significantly impact on officer time in terms of the reprioritisation of already agreed projects, their scope or timetabling and resources. There is also the potential for additional resource requirements in relation to report writing, information collection and analysis and committee attendance. Delivery of service plans to achieve the Council’s agreed Corporate Plan objectives might, therefore, be potentially negatively impacted.
- 15.2. Following the agreed protocol regarding the establishment of this review is essential to ensure that the additional resource requirements associated with the Task and Finish Group are manageable and deliverable and that the service plans of the departments involved are not disrupted. The input of relevant officers in consultation is therefore essential to ensure that the scope of the review remains deliverable with current resources.

### **16. APPENDICES**

- 16.1. Appendix A – Task and Finish Group – S106 Scoping document
- 16.2. Appendix B – Task and Finish Group Protocol 2020

### **17. CONTACT OFFICERS**

- 17.1. Jeevan Mann, Scrutiny Officer, [Jeevan.Mann@north-herts.gov.uk](mailto:Jeevan.Mann@north-herts.gov.uk)
- 17.2. James Lovegrove, Committee, Member and Scrutiny Manager, [James.Lovegrove@north-herts.gov.uk](mailto:James.Lovegrove@north-herts.gov.uk)
- 17.3. Doug Traill-Stevenson, Property Lawyer, [Douglas.Traill-Stevenson@north-herts.gov.uk](mailto:Douglas.Traill-Stevenson@north-herts.gov.uk)
- 17.4. Reuben Ayavoo, Policy and Communities Manager, [Reuben.Ayavoo@north-herts.gov.uk](mailto:Reuben.Ayavoo@north-herts.gov.uk)

17.5. Ellie Hollingsworth, Policy Officer, [Ellie.Hollingsworth@north-herts.gov.uk](mailto:Ellie.Hollingsworth@north-herts.gov.uk)

**18. BACKGROUND PAPERS**

18.1. Minutes of Overview and Scrutiny Meeting on Tuesday 3 September, at which the Section 106 Task and Finish group was discussed - [Minutes from Overview and Scrutiny Committee - Tuesday, 3rd September, 2024 7.30 pm](#)