



**North
Herts**
Council

Section 106 Task and Finish Report

To investigate the effectiveness of Section 106; and to examine whether it is the best mechanism to deliver community infrastructure.

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Section 106 Task and Finish Group Chair's Foreword

The North Hertfordshire Local Plan makes provision for over 13,000 new homes across the district, with the Planning Reforms implemented by Government leaving our communities more vulnerable to speculative development.

Representing a number of communities which have seen development take place, with more homes set to be built, I know a key concern for many across our district is that development is being imposed on communities without adequate infrastructure to support and mitigate the negative impacts of that development.

Without appropriate infrastructure, development is unsustainable and unsustainable development leaves our communities worse off and does a disservice to our residents both old and new.

Too often communities feel that development is being done to them, as opposed to local people and communities being at the centre of the process and what this inquiry has concluded, is that within the Section 106 process in North Hertfordshire there is a disconnect between the infrastructure priorities of the community and the infrastructure which is ultimately delivered through developer contributions.

In this report, we have set out eight key recommendations to improve the Section 106 process in North Hertfordshire.

These recommendations would not only close the gap between our communities and the Councils which serve them but seek to ensure that local people are able to fully benefit from development, with infrastructure schemes funded through Section 106 contributions being grounded in those communities impacted by development.

During the course of our inquiry, we did consider the possibility of recommending that the Community Infrastructure Levy (CIL) be introduced in North Hertfordshire. However, we concluded that this policy change would result in less money being collected from developers to be spent on community infrastructure improvements when compared to the current Section 106 regime, we therefore are not recommending that CIL be adopted in North Hertfordshire.

The planning landscape is constantly evolving and for that reason, reviewing how best to secure and deliver community infrastructure through developer contributions is something that should be an ongoing priority for this Council as we look to the future.

This has been a significant piece of work undertaken by Members and Officers at North Hertfordshire District Council and I would like to thank my colleagues for their invaluable contributions and engagement, Jeevan Mann and James Lovegrove for their assistance and support, as well as all those who took the time to provide crucial evidence, including Nigel Smith and Shaun Greaves, which has enabled my colleagues and I to produce a number of recommendations which if adopted, would help to address the concerns of thousands of people across our towns and villages.

**Councillor Ralph Muncer
Chair of Section 106 Task and Finish Group**

1. Background

Planning obligations under section 106 of the Town and Country Planning Act 1990 ([Town and Country Planning Act 1990 \(legislation.gov.uk\)](https://www.legislation.gov.uk)), are the mechanism which make a development proposal acceptable in planning terms, that would not otherwise be acceptable.

They are focused on site specific mitigation of the impact of development. S106 agreements are often referred to as 'developer contributions' along with highway contributions and the Community Infrastructure Levy.



Following the review of the North Hertfordshire Local Plan in November 2022, communities across the District have seen Planning Applications for sites identified within the Local Plan being given permission and development taking place.

At its meeting on [Tuesday 3 September 2024](#), the Overview and Scrutiny Committee discussed that a Scrutiny Task and Finish Group should be established to investigate and ensure the Section 106 mechanism provides the best outcomes for communities in North Hertfordshire.

Following approval of the Task and Finish Group, political group leaders were asked to nominate Members to sit on the panel, adhering to political proportionality.

A lead officer was appointed by the authority and to act as support to ensure only that factual/legal guidance is given to and discussed by the Task and Finish Group. All drafts of the scope, report and recommendations were shared with the lead officer/Leadership Team so that a parallel report could be produced by them in whatever format they see fit. This is crucial to ensure that informed decisions that are taken also consider the advice and guidance of senior officers.

The Panels first meeting was an informal meeting on Wednesday 30 April 2025, followed by its first formal meeting which took place on Wednesday 16 July 2025. The Panel concluded its business at its final meeting on Thursday 29 January 2026.

The report sets out the recommendations and underpinning evidence to support these. The Panel wishes to thank all stakeholders, witnesses and officers for the assistance provided with its work.

2. Recommendations and Service Responses

Eight recommendations were identified as part of the Task and Finish group consultation; these have been RAG rated by the group for prioritisation and complexity. The key below provides details for each RAG rating:

Prioritisation:

High	Must Have Critical requirements that are vital for success
Medium	Should Have Important but not vital High-value and should be included if possible
Low	Could Have Desirable To be implemented if time and resources permit

Complexity:

High	Complex to implement. Requires additional resource. Cost implications Other associated risks
Medium	May require change to existing policies/ procedures Requires external collaboration Lengthy timescale
Low	Easy to implement May be something currently being developed

Please refer to section 7 for a detailed breakdown of each recommendation.

A service response has been provided for each recommendation from the corresponding stakeholder.

Recommendation 1: Development of ‘Community Infrastructure Priorities’

- Parish Councils within North Hertfordshire develop a list of Community Infrastructure Priorities.
- In unparished areas of the District, we recommend Community Forums assume responsibility for developing these priorities.
- Recommend work is undertaken to investigate the feasibility of formalising this process as part of the updated North Hertfordshire Local Plan.

PRIORITY	COMPLEXITY
High	Medium

Service Response: Director of Place

The Government is proposing reforms to the planning system that will introduce *Neighbourhood Priority Statements (NPS)*.

These will give Parish and Town Councils—and possibly other local groups—a simpler, less resource-intensive way to set out planning priorities for their area, compared with the current Neighbourhood Plan process.

We are waiting for the Government to publish the secondary legislation needed to implement the new planning system. Once this is in place, we will be able to begin work on the Local Plan review and start engaging with stakeholders.

During the *Early Scoping* stage, expected in Spring/Summer 2026, we will consult Parish Councils and other key stakeholders. This will include highlighting the new option to prepare an NPS. We will also look at whether we can provide a straightforward template to help with this.

Any NPS—or other relevant feedback—will help shape the Local Plan and will be considered in discussions on planning applications. Future site allocation work may also draw on these priority statements.

We have provided support to Parish Councils (and other bodies) that have produced a formal Neighbourhood Plan for their area and encouraged the identification of local priorities in these documents.

Service Response: Policy and Community Manager

Community forums are informal meetings to increase public engagement and do not limit public speaking in the same manner as formal committee meetings. The constitution would have to be amended, and the Terms of Reference would need to be amended for the forums to take on this additional responsibility and delegation of decision making. The impact of the additional consideration of s106 obligation may increase the length of the meetings or reduce the participation of the public.

Recommendation 2: Utilisation of Community Partnership Officers

- Community Partnership Officers are trained and utilised to support Parishes in the completion of the Section 106 consultation form and act as a bridge between Parish Councils and the District Council as the Planning Authority.
- See also detail included under Recommendation 3 below.

PRIORITY	COMPLEXITY
High	Medium

Service Response: Director of Place

We previously offered this type of support through our Community Partnership function, but it was discontinued several years ago. As a result, the expertise and capacity needed for this work no longer exist. There is currently no dedicated resource or funding for this, and this would need to be addressed.

We support the principle of helping local communities. However, any reintroduction of this service would need to be carefully designed to ensure clear boundaries between Council roles and to manage risk. Officers may be asked for advice that is subject to legal constraints, which could create legal or reputational risks for the Council if expectations are not met.

Appropriate training and internal processes would be essential.

With the right safeguards and resources in place, the relevant Director would be supportive.

Service Response: Policy and Community Manager

Community Partnership Officers are not planning professionals and therefore do not operate or have detailed knowledge of the Planning framework (S106 obligations as set out in the Community Infrastructure Levy Regulations 2010). Advising on planning matters requires an in-depth understanding of the statutory requirements of the legislation.

Recommendation 3: S106 Training for Parish Councils

- In unparished areas, Community Partnership Officers work with the Chair and Members of Community Forums to complete the Section 106 consultation form.
- As part of the annual planning training offered to Parish Councils, greater emphasis is placed on S106 process and how Parishes can fully engage with the consultation.

PRIORITY	COMPLEXITY
Medium	Low

Service Response: Director of Place

See response to Recommendation 2 above.

Attendance from parish council representatives at previous training sessions was very low and resulted in this being discontinued. Given the large number of parishes in the District, there is not enough staff capacity for officers to visit individual Town and Parish Council meetings.

However, annual online training for all parish councils (and / or sharing of the recordings of this) could be delivered within existing staff resources. More frequent sessions could also be offered if additional funding were available to bring in external support.

Service Response: Policy and Community Manager

There needs to be careful consideration as to expectation of Community Partnership (CP) officers complete the s106 consultation form. The completion by a CP officer does not guarantee that a request will be successful and this needs to be clearly articulated and needs to avoid any perception of bias or predetermination. The exact role of the CP officer needs to be determined very clearly to avoid reputation risk, the correct interpretation of planning legislation and acting within their professional competence, if this is to be implemented. Currently CP officers only signpost to the website and relevant Planning officers for advice on s106 applications.

Recommendation 4: Improvement of Communication and Reporting

- North Hertfordshire District Council Section 106 webpage is updated to include, but not limited to, details of what community projects have been delivered and where, frequently asked questions, an overview of the process and the timeframes which should be expected, restrictions on what Section 106 contributions cannot be spent or and a named contact for more information on Section 106 in North Hertfordshire.
- Reinstatement of the Section 106 report for each area of the District (Southern Rural, Hitchin, Letchworth Garden City, Baldock and Villages and Royston and Villages).

PRIORITY	COMPLEXITY
High	Low

Service Response: Director of Place

Infrastructure Funding Statements (IFS), which already cover many of the issues raised in the recommendation, are now published on our website in line with Government requirements. We will share links to ensure people know what information is currently available.

Work is already underway to improve the website, including clearer navigation to relevant pages and guidance on how to request S106 funding.

The IFS remains a developing document. We have focused first on meeting statutory reporting requirements, but we also intend to make the report more engaging by highlighting specific projects delivered through S106 funding.

Previously, area reports were produced because this level of information was not publicly accessible. With the improvements above—and by increasing awareness of the available content among Councillors and Parish Councils—we believe this approach is the most effective way to meet the recommendation. Introducing additional committee reporting would place further pressure on staff resources. However, we support continued discussion to ensure appropriate access to information and scrutiny.

It may also be helpful to provide further training on how S106 contributions are phased and triggered, and how mitigation schemes are identified and delivered. This would improve understanding of the process and help manage expectations about what can be delivered immediately when development begins and what normally follows later.

Recommendation 5: Improvement of County Councillor Engagement

- That the Executive Member for Place in conjunction with the Chair of the Task and Finish Group, write to Hertfordshire County Council to request that their practices for Section 106 funding for developments in North Hertfordshire include engagement with the relevant County Councillor for the division impacted.

PRIORITY	COMPLEXITY
High	Medium

Service Response: Director of Place

Support that HCC’s attention is drawn to this matter. Any response is an operational matter for relevant HCC officers and Councillors to consider.

Recommendation 6: Circulation of Hertfordshire County Council Infrastructure Prospectus

- That the Executive Member for Place in conjunction with the Chair of the Task and Finish group, write to Hertfordshire County Council to request that the distribution of the Infrastructure Prospectus includes relevant Members and Officers at North Hertfordshire District Council

PRIORITY	COMPLEXITY
Medium	Low

Service Response: Director of Place

Support that HCC’s attention is drawn to this matter. Any response is an operational matter for relevant HCC officers and Councillors to consider.

Recommendation 7: Developer Engagement with Communities

- There is an expectation that developers engage and consult with the community as early in the planning process as possible, including at the pre-application stage, and following this engagement developers should clearly demonstrate to the District Council either as part of a planning application or supplementary document, the feedback received from the community and the amendments, if any, that have been made in response to this feedback. We also recommend this expectation is formalised as part of the updated North Hertfordshire Local Plan.

PRIORITY	COMPLEXITY
High	High

Service Response: Director of Place

The Council is legally required to produce a Statement of Community Involvement (SCI) to explain how the public will be involved in planning matters. Our SCI was updated in 2023 following adoption of the Local Plan. It encourages developers to engage with local groups and residents at the pre-application stage through letters, public exhibitions and direct contact with immediate neighbours.

A draft legal agreement is required for validation of all Major housing applications. Developments of 50 or more homes must include an application-specific Statement of Community Involvement.

Local Plans cannot set formal policies that require pre-application engagement; we cannot refuse to consider a planning application that is valid. However, we will continue to use the tools available under the new plan-making system to reinforce the expectations set out above.

Recommendation 8: Developer Contributions paid for 9 properties or less

- That as part of the updated North Hertfordshire Local Plan, a mechanism is developed to ensure developers are liable to pay a contribution towards community infrastructure and/or improvements for those developments of 9 homes or less.

PRIORITY	COMPLEXITY
Medium	High

Service Response: Director of Place

The general principle that an accumulation of small developments can impact upon overall infrastructure capacity is recognised. We have recently commissioned viability work to support the Local Plan review. This will assess a range of development scenarios and identify what contributions can reasonably be required from new development.

Government policy is generally moving toward reducing regulatory burdens on smaller schemes. However, there is currently nothing that specifically prevents this approach from being considered. We would need to consider, with infrastructure providers, how to most efficiently proceed with this as it would potentially require them to respond to a significantly higher number of applications.

We will continue to monitor national policy and explore suitable options through the Local Plan, in line with the Task and Finish Group’s recommendation.

3. Scope of Review

The Overview and Scrutiny Committee agreed to undertake a review of the Council's planning obligations Section 106, as part of the 2024-25 Work Programme.

The review was raised to determine if Section 106 contributions are being used effectively to mitigate the impact of new development on existing communities and provide appropriate levels of infrastructure to support new development.

Regular updates on the Section 106 obligations have been requested at Planning Control Committee, but an in-depth look at the overall process was agreed by the Overview and Scrutiny Committee, to ensure that Section 106 was the best option for North Hertfordshire Council or to alternatively identify another mechanism that would deliver better outcomes for the local communities.



The scrutiny review supported the Corporate Priorities of Thriving Communities, Responsible Growth, Sustainability and Accessible Services, whilst ensuring that planning contributions are being allocated for appropriate levels of community infrastructure and provide services to new, existing communities and residents in North Herts.

The aim of the review was:

To investigate the effectiveness of Section 106 and to examine whether it is the best mechanism to deliver community infrastructure.

The objectives agreed were:

- To understand how does the S106 funding system currently operate in North Hertfordshire.
- To ensure that Section 106 funding in North Hertfordshire is effective in providing community and social infrastructure for existing and new development.
- To access what the alternatives are available to Section 106 funding.
- To access if alternatives to Section 106 funding would deliver better outcomes for residents in North Hertfordshire.
- To identify if the Section 106 funding system continue in North Hertfordshire or should it be reformed.

The key issues identified for investigation included:

- 1) Rules governing S106 agreements (legal framework and policy)
 - a) To identify how the mechanism for S106 works – current legal and policy framework
- 2) How the current mechanism operates in North Hertfordshire
 - a) To understand and assess how the S106 regime has been implemented at North Hertfordshire – perspectives from County Council, local communities, NHS and developers
 - b) To understand how S106 funding is being allocated to provide community and social infrastructure for existing and new developments (limitations and benefits) – County and NHS allocation process
- 3) Issues/ concerns with the current mechanism
 - a) To identify how effectively the current S106 contributions are being allocated to deliver social and community infrastructure in a timely manner – identify if any problems are arising, understand if such issues could have been foreseen and highlight any specific characteristics such projects have in common.
- 4) Improvements or alternative mechanisms
 - a) To identify if there are any opportunities to enhance the current S106 mechanism to address any limitations.
 - b) To identify and examine alternative available mechanisms and their benefits/ limitations.
 - c) Comparison of S106 and alternative mechanisms.

A full list of the stakeholder groups can be found in Appendix 1

The Task and Finish Group committee comprised the following Members:

- Councillor Ralph Muncer (Chair)
- Councillor Ruth Brown
- Councillor Paul Ward
- Councillor Ian Mantle
- Councillor Daniel Wright-Mason

Support to the Committee was provided by the Scrutiny Officer, Jeevan Mann and Committee, Member and Scrutiny Manager, James Lovegrove.



4. Methodology

The Task and Finish group panel met on 7 occasions to consider the scope of the review, discuss key issues, review the evidence gathered and identify recommendations.

At its first meeting on Wednesday 30th April 2025, the Task and Finish Group developed the objectives and project plan for the review.

The Task and Finish group sought evidence in the way of:

- Internal enquiries to assess the Councils existing S106 mechanism, by way of a member briefing, background documents (Section 9) and interview with the Director of Place and Development and Conservation Manager.
- Internal enquiries to understand CIL and its application, by ways of background documents (Section 9) and interview with Director of Place and Development and Conservation Manager.
- An investigation and evaluation of stakeholder feedback on the councils S106 mechanism, by way of Survey and request for Statements (Appendix 2).



Summaries of the work undertaken at each meeting of the Panel are set out below:

Meeting	Date	Scope
1. Informal Meeting – Scope Review	April 2025	Develop objectives for the Task and Finish Group
2. Initial Planning Meeting	April 2025	High level planning meeting
3. Engagement Planning Meeting	July 2025	Identify Stakeholders and develop questions for the consultation
4. Consultation of NHDC Planning Officers	September 2025	Interview with North Hertfordshire Council Director of Place and Development and Conservation Manager
5. Consultation Analysis	November 2025	Analysis of feedback from consultation survey and statement
6. Consultation of HCC Planning Officers	December 2025	Interview with Hertfordshire County Council s Planning and Education Officers
7. Review of consultation and identification of recommendations	January 2026	Identify and draw out recommendation based on evidence gathered from the consultation

5. Evidence

The following section outlines the evidence that was gathered to address each of the Objectives set out in the Task and Finish group scope:

1) Rules governing S106 agreements (legal framework and policy)

Objective:

- a) To identify how the mechanism for S106 works – current legal and policy framework

Method:

- A briefing was received from North Herts Council Planning Officers and the Development and Conservation Manager to better understand the rules governing the use of the Section 106 Agreement
- The Director of Place provided background papers which had previously been submitted to Cabinet (Section 9) as well as an unpublished comparison report on CIL versus Section 106.

Evidence:

Members received a Briefing on S106 Obligations from Planning Officers and the Development and Conservation Manager, which included the following:

Enforcement

- Principles of planning enforcement.
- Identification of the enforcement powers and tools available to address the application of discretion and expedience in the exercise of those powers.
- Identification of some of the common issues relating to planning enforcement sand the involvement of elected members with enforcement matters within their community.

S106 Obligations

- Outline of the Section 106 process, procedures and limitations of S106 obligations. Including when and what is sought in terms of financial contributions and the involvement of elected members, parish/town councils and other parties in this process.

2) How the current mechanism operates in North Hertfordshire

Objective:

- a) To understand and assess how the S106 regime has been implemented at North Hertfordshire – perspectives from County Council, local communities, NHS and developers

Method:

- A short statement request was sent to stakeholders to understand how developer contributions from North Herts District Council are determined, allocated and spent.

Evidence:

Stakeholders provided responses to the following questions:

Statement requests 1

Hertfordshire County Council Planning and Education Officers, Herts and West Essex Integrated Care Board (ICB)

- How does your funding request process work?
- How are contribution amounts determined? (How do you work out how much you need to request)
- What is the internal process for allocating contributions?
- How much community engagement is carried out before making a request?
- How are the priorities for allocation identified?
- How is the spend of funding communicated back to North Herts Council?
- What do you do with the money once you receive it?
- What is your experience with communicating and dealing with North Herts Council?

Statement requests 2

Developers

- How do you find the process?
- Do you have any suggestion for improvements from a developer perspective and reasons for this?
- How do dealings with North Herts District Council compare to local authorities?

Copies of the responses received can be found at Appendix 2.

2) How the current mechanism operates in North Hertfordshire

Objective:

- b) To understand how S106 funding is being allocated to provide community and social infrastructure for existing and new developments (limitations and benefits) – County and NHS allocation process

Method:

- A short survey request was sent to Parishes, Community and Developer to provide them with an opportunity to feedback on the current North Herts S106 mechanism.

Evidence:

Stakeholders provided responses to the following questions:

- Do you know what “Section 106”, often referred to as S106, funding is?
- Do you know how to make a request for something to be paid for through developer contributions at North Herts Council?
- Have you requested or been involved in S106 funding requests at North Herts Council? How did you find the process to complete the S106 request?
- Do you understand the process after submitting your request?
- What if any challenges did you encountered with the S106 process?
- Do you feel that you received adequate feedback/communication following your request?
- Are you aware of any examples in your local area where developer contributions have been spent on a specific project for the community benefit?
- Please select from the available options how the contributions were spent
- Do you feel engaged on how developer contribution decisions are made?
- Do you feel engaged of how developer contributions were spent?
- How should developer contributions be prioritised and spent?
- Would you like to raise any comments regarding the current S106 development contribution mechanism.
- Please note this is not a chance to make a formal request for S106 funding.

Copies of the responses received can be found at Appendix 2.

3) Issues/ concerns with the current mechanism

Objective:

- a) To identify how effectively the current S106 contributions are being allocated to deliver social and community infrastructure in a timely manner – identify if any problems are arising, understand if such issues could have been foreseen and highlight any specific characteristics such projects have in common.

Method:

- A meeting was held by the Task and Finish group to analyse responses received from all stakeholder survey and statements.

Evidence:

Members of the Task and Finish group analysed the survey and statement responses to identify key themes for further investigation, these included:

- A lack of transparency with the S106 process
- Parish Councils, even if they understood S106, said the process to follow was hard
- A lack of understanding when to engage in the S106 process
- No wish list of projects
- Not enough expertise in Parishes
- Parish and District not working closely enough together
- Issues with requirements of finding schemes to be requested funds for
- Parishes not informed of what is left over for local schemes
- Understanding of realistic amounts to request
- Understanding that contributions are for local mitigations, not for general Council needs
- Parish Councils – reluctance to ask for S106
- More engagement early on with non-statutory bodies to outline the process

Following the analysis, it was identified that further investigations would be required and a face-to-face consultation was arranged with Hertfordshire County Council to delve into the issues and concerns identified.

4) Improvements or alternative mechanisms

Objective:

- a) To identify if there are any opportunities to enhance the current S106 mechanism to address any limitations.

Method:

- A meeting was held by the Task and Finish group to analyse responses received from the Hertfordshire County Council Planning and Education Officers and cross reference these against the outputs and analysis from the survey and statement responses that had been received.

Evidence:

An analysis was undertaken to identify key themes, gaps and opportunities for improvements, thereby drawing out recommendations.

The outputs of this activity are captured as recommendations in sections 2 and 7 of this report.

4) Improvements or alternative mechanisms

Objective:

- b) To identify and examine alternative available mechanisms and their benefits/limitations.
- c) Comparison of S106 and alternative mechanisms.

Method:

- North Hertfordshire Planning and Education Officer provided face-to-face statements to assist the Task and Finish Group in understanding the current S106 process and options for alternative mechanism – CIL and S106

Evidence:

Planning and Education Officers answered group member questions regarding S106 Planning Obligations.

6. Analysis

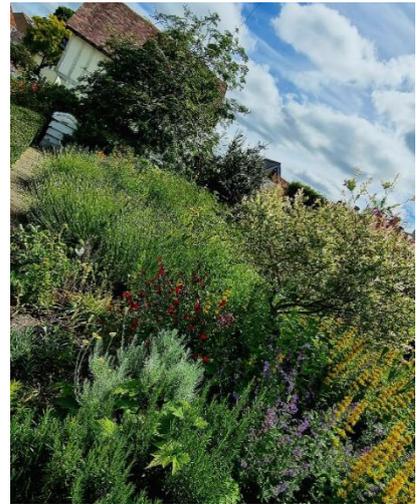
The following section details how the evidence gathered was analysed and used to drive out recommendations.

Three key determiners were used as part of the analysis and include:

Issue: Details the weaknesses / areas for improvement identified

Impact: Details the consequences of the issue

Opportunity: Identifies shifts that can be exploited to achieve benefits



Analysis	Opportunity
<p><u>Issue</u>: Parishes do not have the skills/ capacity to complete the S106 forms to request obligation monies for community projects.</p> <p><u>Impact</u>: Parishes are missing opportunities to influence/ request monies to mitigate development impacts within their community.</p>	<p>Train and utilise Community Partnership Officers to Support Parishes in the completion of S106 obligations forms and act as a link/ bridge between Parishes and local authority:</p> <ul style="list-style-type: none"> The Community Partnership Officers are close to the community and some already support this process. <p>Narrative: Reprioritisation of priorities may be required to facilitate this</p>
<p><u>Issue</u>: Parishes/ Unparished areas currently do not maintain a list of local community needs to put forward as part of S106 requests.</p> <p><u>Impact</u>: Parishes/ Unparished areas cannot react to S106 requests in a timely and detailed manner, thereby missing opportunities to request relevant monies for local community projects/ needs.</p>	<p>Encourage Parishes to maintain a Community Infrastructure Priorities list which can then be feed into the Neighbourhood Planning Process. This list should be regularly reviewed, prioritised and filed with the District Council to be referred to when development is imminent.</p> <ul style="list-style-type: none"> Formalise the process as part of the local plan review.

Analysis	Opportunity
<p><u>Issue:</u> Parishes do not have the skills to complete the S106 forms to request obligation monies for community projects.</p> <p><u>Impact:</u> Parishes are missing opportunities to influence/ request monies to mitigate development impacts within their community.</p>	<p>NHDC Planning Officers to provide annual training to Parish Councils/ Clerks, including:</p> <ul style="list-style-type: none"> • Understanding of the end-to-end process • How to complete key documents <p>Members will need to encourage Parishes to attend the training on an annual basis.</p> <ul style="list-style-type: none"> • Members to be part of the process to ensure that their communities are in the best possible position to secure infrastructure.
<p><u>Issue:</u> Communities and Parishes do not have sight of where S106 monies have been spent within local communities and what remains outstanding.</p> <p><u>Impact:</u> Communities are unable to prioritise or reallocate monies for local community infrastructure projects as they have no sight of the status of S106 obligations for their communities.</p>	<p>Develop/ expand on North Herts S106 webpage to include:</p> <ul style="list-style-type: none"> • Details of what community projects have been delivered and where • FAQ's / case studies • Overview of Process • Process and decision timeframes • Restrictions • Who to contact for S106 information <p>Reinstate the area-by-area S106 spend report.</p>
<p><u>Issue:</u> Hertfordshire County Council do not consult with County Members as part of the pre decision on S106 submissions.</p> <p><u>Impact:</u> Members are unable to feed in community priorities as part of decision making and are also unaware of the basis of decisions to feedback to communities once a decision has been made.</p>	<p>County member input to be incorporated into S106 pre decision process for:</p> <ul style="list-style-type: none"> • Transparency of decision making • Prioritisation of local community infrastructure needs • Feedback of decision making to communities.

Analysis	Opportunity
<p><u>Issue:</u> The HCC Infrastructure Prospectus is not distributed to district members/ officers.</p> <p><u>Impact:</u> District members do not have sight of the wider infrastructure plans for the County and are unable to influence/ feed into this for their local communities.</p>	<p>HCC to include District members in the distribution of the Infrastructure Prospects to enable:</p> <ul style="list-style-type: none"> • District members have an up-to-date view of the infrastructure delivery and can feedback any concerns to District S106 Officers
<p><u>Issue:</u> Not all developers conduct community engagement to consult the public on planned developments/ impacts and mitigations.</p> <p><u>Impact:</u> Communities where development takes place do not feel consulted. Impacts because of the development may not be appropriately prioritised and mitigated through the S106 process.</p>	<p>Developers are expected to engage with the community as early in the planning process as possible, including, at the pre-application stage and following this should stipulate their plans because of the local engagement:</p> <ul style="list-style-type: none"> • Highlight the outputs of this to the District Council • Included in the Local Plan under community engagement
<p><u>Issue:</u> Developers with less than 9 houses are not currently required to contribute towards S106.</p> <p><u>Impact:</u> Developers take the less than 9 rule as an opportunity to split out planned developments into several smaller developments to prevent the S106 obligations.</p>	<p>A mechanism is required to ensure that developers are truly developing less than 9 house because of the advantages it will provide to the local communities and not to avoid the need for S106 payments.</p>

7. Recommendation details

The main points from the consultation have been analysed and the committee has put together 8 recommendations based on opportunities identified, which will assist the Council in improving the Section 106 mechanism at North Hertfordshire Council.

Recommendation 1: Development of 'Community Infrastructure Priorities'

It is not normal practice for Parish Councils to maintain a list of potential projects that could be funded through Section 106 contributions, which limits the ability of these authorities to provide timely and detailed responses to the District Council when consulted as part of the Section 106 process. This has the potential to allow for communities to miss out on opportunities to request relevant monies for local community projects and needs.

Therefore, **we recommend that Parish Councils within North Hertfordshire develop a list of Community Infrastructure Priorities** which would provide local residents and Councils with greater clarity as to the infrastructure aspirations within our communities. **In unparished areas of the District, we recommend Community Forums assume responsibility for developing these priorities.** Community Infrastructure Priorities should be regularly reviewed by either Parish Councils or Community Forums and this document should be filed with the District Council to ensure planning officers are aware of the infrastructure priorities of communities impacted by future development.

Additionally, **we recommend work is undertaken to investigate the feasibility of formalising this process as part of the updated North Hertfordshire Local Plan** so that give greater weight is given to the infrastructure priorities of communities when planning applications are assessed by the District Council.

Recommendation 2: Utilisation of Community Partnership Officers

Please see recommendation three for detail.

Recommendation 3: S106 Training for Parish Councils

Parishes within North Hertfordshire often have a single member of staff, the Parish Clerk, who manages the business and operations of the Parish Council. Concerns have been raised about both the capacity and the expertise required to engage with the Section 106 process, particularly during the consultation phase, and there is a risk that because of these issues, Parishes are missing out on opportunities to influence and request monies to mitigate the impact of development within their communities.

Therefore, **we recommend that Community Partnership Officers are trained and utilised to support Parishes in the completion of the Section 106 consultation form and act as a bridge between Parish Councils and the District Council as the Planning Authority. In unparished areas, we recommend Community Partnership Officers work with the Chair and Members of Community Forums to complete the Section 106 consultation form**, ensuring these communities do not miss out on funding for local infrastructure projects. Whilst we acknowledge this recommendation may require reprioritisation within the Community Partnership Team, having looked at alternative options, we believe this responsibility should ultimately lie with the team, not least because Community Partnership Officers are close and in touch with communities across North Hertfordshire, with some already providing similar support to Parish Councils. In order to address the concerns which have been highlighted regarding the expertise required to partake in the Section 106 process, **we recommend that as part of the annual planning training offered to Parish Councils, greater emphasis is placed on S106 process and how Parishes can fully engage with the consultation** to ensure these authorities can secure infrastructure for the communities they serve. District Councillors have an important role in raising awareness of this training and should encourage Parish Councillors and Clerks to attend.

Recommendation 4: Improvement of Communication and Reporting

Communities and Parish Councils struggle to identify where Section 106 monies have been spent within local communities impacted by development, as well as what monies and/or projects remain outstanding. As such, communities are unable to prioritise or reallocate monies for local community infrastructure projects and therefore, **we recommend the North Hertfordshire District Council Section 106 webpage is updated to include, but not limited to, details of what community projects have been delivered and where, frequently asked questions, an overview of the process and the timeframes which should be expected, restrictions on what Section 106 contributions cannot be spent on and a named contact for more information on Section 106 in North Hertfordshire.** We also recommend the reinstatement of the Section 106 report for each area of the District (Southern Rural, Hitchin, Letchworth Garden City, Baldock and Villages and Royston and Villages).

Recommendation 5: Improvement of County Councillor Engagement

The experience of the County Councillors taking part in this enquiry (Cllr Brown and Cllr Muncer) is that Hertfordshire County Council does not consult with County Members prior to the authority engaging with or submitting their proposals for schemes funded through developer contributions. This limits the opportunity for County Members to engage with County Officers, ensuring Officers are aware of the priorities within the community and take this information into account as part of the decision-making process. County Members also are unaware of the basis on which decisions have been made, presenting challenges with providing feedback and information to communities following a decision having been made by the authority to prioritise certain schemes.

Therefore, **we recommend Hertfordshire County Council review their pre-decision process for Section 106 funding for developments in North Hertfordshire to include engagement with County Councillors** to increase the transparency of decision making, ensure local community infrastructure needs are prioritised and that County Members are able to provide greater feedback to communities as to the decision-making process.

Recommendation 6: Circulation of Hertfordshire County Council Infrastructure Prospectus

Hertfordshire County Council produce an Infrastructure Prospectus; however, this prospectus is not shared with District Councillors or Officers which limits the ability of District Members to have a wider understanding of the strategic infrastructure plans for both the District and the County. This also means District Members are limited in their ability to influence this plan and the schemes that are proposed within it which may have an impact on the communities they represent.

Therefore, **we recommend that Hertfordshire County Council include Members and Officers of North Hertfordshire District Council in the distribution of the Infrastructure Prospectus** to support District Members in having an up-to-date view of infrastructure proposals and delivery, as well as ensuring that feedback can be given and/or concerns raised by District Members to District Section 106 Officers regarding specific projects.

Recommendation 7: Developer engagement with Communities

Some, but not all developers conduct pre-application consultation and engagement with the community regarding proposed developments, and the mitigations developers propose to put in place to address concerns surrounding pressures on local infrastructure. Where this engagement does not take place, communities do not feel they have been listened too or that their concerns have been addressed. Early community engagement is crucial not only to ensure that communities are able to suggest infrastructure improvements to a scheme but can also support placemaking which helps to ground development proposals in the communities they seek to be a part of.

Therefore, **we recommend there is an expectation that developers engage and consult with the community as early in the planning process as possible, including at the pre-application stage, and following this engagement developers should clearly demonstrate to the District Council either as part of a planning application or supplementary document, the feedback received from the community and the amendments, if any, that have been made in response to this feedback. We also recommend this expectation is formalised as part of the updated North Hertfordshire Local Plan.**

Recommendation 8: Developer Contributions paid for developments of 9 properties or less

Currently, developments in North Hertfordshire of 9 properties or less are not required to make a financial contribution for improvements to community infrastructure. This situation means that some developers could take the opportunity to split planned developments into several smaller developments in order to avoid Section 106 obligations which would have a detrimental impact on the communities impacted by these developments. However, we recognise the work of Planning Officers at North Herts Council to ensure that such proposals are identified, with the relevant policies and requirements being applied to ensure that developer contributions are paid on the total quantum of development.

Across North Hertfordshire, we have a significant number of smaller, rural communities, where development of 9 homes or less, has a more pronounced impact on local community infrastructure than if such development were to be proposed in a more urban setting.

Therefore, **we recommend that as part of the updated North Hertfordshire Local Plan, a mechanism is developed to ensure developers are liable to pay a contribution towards community infrastructure and/or improvements for those developments of 9 homes or less.**

8. Conclusion

Following concerns being raised by members of the Council surrounding the effectiveness of the S106 process in North Hertfordshire, the Overview and Scrutiny Committee determined that this matter was of significant importance to warrant further detailed scrutiny and investigation in examining whether the Section 106 regime is the best mechanism to deliver community infrastructure.

What this inquiry has concluded, is that within the Section 106 process in North Hertfordshire there are a number of issues, not least a disconnect between the infrastructure priorities of the community and the infrastructure which is ultimately delivered through developer contributions, which if left unchecked could lead to communities facing determinantal impacts as a result of local development taking place.

Therefore, we have made the recommendations contained within this report, which if adopted, would allow communities to be more engaged with the planning process and ensure that community infrastructure aspirations are prioritised. However, we recognise that the planning landscape is constantly evolving and that some of the recommendations set out in this report would require changes to legislation and regulation that can only be affected by Parliament.

Following the responses received to the recommendations in section two of this report, we also appreciate that some progress is being made by the District Council towards improving the current process, although moving forward it will be crucial to ensure these matters are monitored and continuously reviewed to enable our communities to fully benefit from developer contributions.

9. Appendices

Appendix 1: Stakeholders

Stakeholders asked to respond to survey/ statement requests:

- Conservators of Therfield Heaths and Greens
- 14 Developers
- Hertfordshire County Council Education
- Hertfordshire County Council Growth & Infrastructure
- Hertfordshire County Council Highways
- Herts and West Essex Integrated Care Board
- 23 Housing associations
- Natural England
- North Herts Council Housing
- North Herts Council Legal
- North Herts Council Leisure
- North Herts Council Museums
- North Herts Council Open Space
- North Herts Council Waste
- 27 Parishes in North Hertfordshire
- Sport England

North Herts stakeholders engaged during the review:

- Director – Place
- Development and Conservation Manager

Appendix 2: Stakeholder Consultation results

- 2.1 Stakeholder responses to short survey
- 2.2 Sports England and Others Questionnaire Results
- 2.3 Developer Questionnaire Results
- 2.4 HWE ICBs Response to NHDC Section 106 Statement request
- 2.5 HCC Response to NHDC Section 106 Statement request

10. Background Papers

- 9.1. Background Paper to members 30012025 (*included below*)
- 9.2. [Cabinet December 2018](#) Strategic Planning Matters - [Report](#)
- 9.3. [Cabinet January 2020](#) Draft Developer Contributions SPD - [Report](#)
- 9.4. [Cabinet March 2021](#) Local Plan Implementation - [Report](#)
- 9.5. [Cabinet November 2023](#) Strategic Planning Matters - [Report](#) (Levelling Up and Regeneration Act 2023)
- 9.6. Hertfordshire County Council Case Studies of S106 spend North Herts (*included below*)

BACKGROUND PAPER
TASK AND FINISH GROUP
EFFECTIVENESS OF SECTION106 FUNDING

1. Introduction

- 1.1 This background paper sets out matters relating to an investigation of the effectiveness of Section 106 obligations in delivering community infrastructure. The paper seeks to provide the Chair of Overview & Scrutiny with sufficient information to enable a Task & Finish Group to be established.

2. Key Issues

- The legal framework and policy governing S106 agreements
- How the current mechanism operates in North Hertfordshire
- Issues or concerns that have been expressed with the current mechanism
- Alternative mechanisms and whether they would enable better outcomes for communities within the District.

3. Legal Framework and Policy

Legislation

- 3.1 S106 of the Town and Country Planning Act 1990 allows a local planning authority to enter into a legally binding agreement or planning obligation with a landowner as part of the granting of planning permission. The obligation is termed a Section 106 agreement. Developers may also submit a Unilateral Undertaking (UU), which is a simplified version of a Section106 agreement where developers submit a legal deed that covenants to perform planning obligations.
- 3.2 Other relevant legislation includes:
- The Community Infrastructure Levy (CIL) Regulations 2010 (as amended)
- 3.3 The common use of a planning obligation is to secure affordable housing, on-site infrastructure or a financial contribution to provide infrastructure off-site. Regulation 122 of the CIL Regulations (as amended) sets out three tests for Planning Obligations. These are:
- a. Necessary to make the development acceptable in planning terms
 - b. Directly related to the development; and
 - c. Fairly and reasonably related in scale and kind to the development.

Policy

- 3.4 There are local and national planning policies relating to S106 obligations. The Council adopted the North Hertfordshire Local Plan in November 2022.

Following that the Developer Contributions Supplementary Planning Document (SPD) was adopted in January 2023.

- 3.5 The following Local Plan Policies are important to the consideration of applications for planning permission and Planning Obligations.

Policy SP7: Infrastructure requirements and developer contributions

- 3.6 Requires development proposals to make provision for infrastructure that is necessary in order to accommodate additional demands resulting from the development. We will:

- a) Require developers to provide finance and/or contribute towards provision which is fairly and reasonably related in scale and kind to development including:
 - i. On site and/or off site improvements and infrastructure necessary as a result of the development in order to:
 - Ensure appropriate provision of facilities and infrastructure for new residents;
 - contribute toward addressing cumulative impacts that might arise across multiple developments;
 - avoid placing unreasonable additional burdens on the existing community of existing infrastructure;
 - mitigate adverse impacts where appropriate; and/or
 - enhance critical assets or make good their loss or damage; and
 - ii. maintenance and/or operating costs of any such new provision.
- b) Ensure essential new infrastructure to support new development will be operational no later than the completion of development for during the phase in which it is needed, whichever is earliest;
- c) Refuse planning permission where appropriate agreements of process ensuring criteria (a) and (b) can be met are not in place;
- d) Have regard to relevant national guidance or requirements in relation to planning obligations and any Community Infrastructure Levy or successor funding tariff which may be introduced by the Council;
- e) Work with landowners, developers and other agencies in facilitating the delivery of sites identified in the Local Plan and associated infrastructure and seek to overcome known obstacles ; and
- f) Need robust evidence to be provided where developers consider that viability issues impact upon the delivery of key infrastructure and/or mitigation measures. This evidence will be used to determine whether an appropriate and acceptable level of contribution and/or mitigation can be secured.

Policy HS2: Affordable housing.

- 3.7 Stipulates that planning permission for new homes will be granted provided that affordable housing is provided in accordance with identified targets (e.g. 40% for developments of 25 or more dwellings) subject to viability.
- 3.8 Whilst the delivery of affordable housing can be controlled by a planning condition attached to a planning permission, there is a preference from affordable housing providers that this matter is controlled by a S106 agreement.

Developer Contributions SPD January 2023

- 3.9 This supplementary planning document sets out detailed guidance on the type and scale of developer contributions that will be sought to support new development in our area and is a material consideration to which significant weight should be attached when determining planning applications. This document is used as guidance when securing obligations, whether by S106 agreements or UU.

Government Policies and Guidance

- 3.10 The National Planning Policy Framework (NPPF December 2024) repeats the statutory tests for S106 Planning Obligations at paragraph 58 (see 3.3 above). Paragraph 59 of the NPPF confirms that *“it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case....”*

All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning practice guidance, including standardised inputs and should be made publicly available.”

- 3.11 Detailed guidance is provided on the use of S106 Planning Obligations and CIL in the National Planning Practice Guidance.

4. How the current mechanism operates in North Hertfordshire

- 4.1 When an application for planning permission is submitted, an applicant may submit what are called draft Heads of Terms. These are a list of planning obligations that the applicant proposes. There may have been pre-application consultations with the Council, the County Council and the local community which would have informed the applicant as to what planning obligations may be sought. The applicant should also review and consider our adopted Developer Contributions SPD, as well as national guidance.

- 4.2 Planning obligations are normally sought for housing development of 10 or more units and affordable housing is sought for developments of 11 units or more in accordance with Local Plan Policy HS2.
- 4.3 On the receipt of an application for planning permission for 10 dwellings or more, Parish Councils are provided with a form to complete setting out details of the financial contributions or other obligations that they are seeking to address the impacts of that development.
- 4.4 The planning case officer will consider the draft Heads of Terms and following consultation with parties including Parish Councils will seek to agree the Heads of Terms with the applicant and instruct legal services relating to the production of a draft S106 agreement or review of a draft UU submitted by the applicant.
- 4.5 Parish Councils may seek assistance from the planning case officer to act as their advisor or planning consultant during this process with regard to seeking s106 funding. However, that is not the officer's role and providing such advice to a third party may constitute a conflict of interest. It is the role of the planning case officer to consider any submissions by third parties and not advise them on what they should submit.
- 4.6 The planning case officer considers any submissions received against legislation and planning policies. If planning obligations sought by Parish Councils or other parties, such as other NHDC departments and the County Council, are found to meet the relevant legislation and planning policies then these are requested from the applicant.
- 4.7 Requests from other Council departments usually lack detail and justification and again it is not the role of the planning case officer to act as advisor or planning consultant for other departments. However, further information can be requested and general guidance on the process can be provided.
- 4.8 Following negotiations with the applicant and agreement of Heads of Terms and the production of a Draft S106 agreement/UU, an application will be considered and the content of the agreed Heads of Terms or provisions within the draft agreement or UU will be set out in the officer report. In most cases developments of a scale requiring a S106 agreement will be reported to the Planning Control Committee. A resolution will be made either to refuse planning permission or grant subject to the applicant entering into a S106 agreement or submitting a completed and signed UU.
- 4.9 Once an obligation has been signed, information is recorded by the Council's Section 106 Monitoring Officer within the Conservation and Enforcement Team. The following information is recorded:
- Planning application reference number and location of development
 - Date of the S106 agreement
 - Whether S106 agreement or UU
 - Obligation type: such as open space, sustainable transport, healthcare, community, waste & recycling etc.

- Details of the obligation due, whether index linked and trigger for payment
 - Clawback period
 - Developer detail
- 4.10 The Council currently have a part-time S106 Monitoring and Planning Compliance officer. The demands on this role will increase as more of the Local Plan allocated sites come forward through the development management process. Monitoring fees are required and form part of the provisions of a S106 agreement and it is anticipated that these fees will fund additional staff resource in the future to ensure that there is effective monitoring.
- 4.11 An Infrastructure Funding Statement (IFS) will be made available shortly on the Council's website. This will set out the following details of all S106 obligations:
- Obligations secured – whether the trigger point for contributions has been met and whether a contribution is now due
 - Obligations received – relevant monies received by the Council.
 - Allocated monies – monies that have been allocated to a specific project as outline in the legal agreement or UU
 - Spent contributions – monies that have been spent on a purpose specified in the S106 legal agreement or UU.
 - Returned contributions – monies that have been returned to a developer
- 4.12 The IFS will be updated regularly, and this will be available for anyone to view the above information.

5. Issues or concerns that have been expressed with the current mechanism

- 5.1 The issues or concerns that officers are aware of are as follows:
- Parish Councils have difficulty in understanding and fully engaging in the process due to an absence of time and/or expertise;
 - That there are limitations to what and when planning obligations may be sought;
 - Whether S106 contributions are being allocated and spent in a timely manner;
 - Time taken to sign legal agreements once a resolution to grant planning permission has been taken;
 - What improvements can be made to the current mechanism; and
 - Awareness of funding.

Parish Council requests

- 5.2 Training was undertaken on 13 January 2025 for NHC Members and Parish Councillors and the issues raised relating to requests from Parish Councils were discussed.

- 5.3 Parish Council's objecting to proposals may be reluctant to engage in the process of seeking Planning Obligations due to the concern that this may be misconstrued as support for a proposal or dilute objections to a proposal. However, officers always encourage engagement as the local authority may not be the determining body, for example in the case of an appeal. Also, any requests are without prejudice to opposition to a proposed development.
- 5.4 A form is supplied for completion by Parish Council's and this form confirms the CIL tests set out above. Parish Councils may have difficulty in understanding these tests and in providing sufficient detail to enable the planning case officer to consider the submission and put these to the applicant.
- 5.5 There is therefore a gap in the current process in terms of obligations that are sought by Parish Council's. This matter could be addressed by allocating resources for independent advice to Parish Councils. The impact, both in time and financial costs, of allocating such a resource from within NHC given current resources are likely to be prohibitive. A more sustainable solution would likely be the regular training for all or a select group of Parish Councillors who can then share their knowledge within the Parishes. This approach could then also address some of the issues discussed below.

Limitations to what and when obligations may be sought

- 5.6 The CIL tests place limitations upon what can be sought. Contributions must address the impacts of a proposed development and not existing shortfalls in infrastructure, facilities or services. The contributions sought must be reasonable and related in scale and kind to the development.
- 5.7 Obligations must be sought during the process of considering the application for planning permission. A legal agreement must specify what contributions may be used for. This cannot be changed later if a recipient such as a Parish Council wishes to spend funds on something else not specified within an agreement.
- 5.8 When contributions are received then they are released on receipt of a duly completed form. The request is assessed against the provisions of the S106 agreement.
- 5.9 There is usually a trigger point for obligations to be paid by the developer and contributions, and they are set out in the legal agreement or UU and contributions must usually be spent within a specified period, this is usually within 10 years of payment otherwise funds must be returned (this is not the case with UU).
- 5.10 Monies are usually paid to this Council where a third party is not a signatory, such as Parish Councils. We monitor the trigger points and receipt of funding requests. It is not within the control of planning officers when requests are received for funds.

- 5.11 The County Council is a signatory to a S106 agreement where they are requesting developer contributions, and such contributions are paid directly to the County Council who are then responsible for monitoring and spending the contributions within the prescribed period.
- 5.12 Issues have arisen with Parish Councils seeking contributions after the negotiation process with the developer has been completed and even after the S106 agreement has been completed and planning permission granted. It is then too late in the process to seek contributions.
- 5.13 Issues have also arisen with Parish Councils seeking agreement to spend allocated funds on a different matter than that specified in a S106 agreement. However, funds received and held can only be released and spent on those matters set out within the S106 agreement.

Are S106 Contributions being allocated and spent in a timely manner?

- 5.14 Contributions towards infrastructure, services and facilities provided by the County Council are monitored and spent by them. This is outside the control North Herts Council.
- 5.15 Developments are monitored in terms of trigger points and contributions are sought from developers at the relevant trigger point.
- 5.16 Monitoring fees are sought which will assist in staff resourcing as more housing is delivered.
- 5.17 Monies are allocated in accordance with the provisions of the relevant S106 agreement or UU.
- 5.18 There is a process in place for funding requests and they are considered in a timely manner in line with the current process. The release of funds requires the approval of the Development and Conservation Manager or the Service Director, Regulatory.
- 5.19 It is a matter for the relevant organisation or Council department to request funds in advance of them being required, and with sufficient information to enable assessment against the relevant provisions of the S016 agreement.

Time taken to sign legal agreements once a resolution to grant planning permission has been taken

- 5.20 The time taken to negotiate S106 agreements before and following the resolution to grant planning permission delays the process of determining applications for planning permission for housing development and consequently the delivery of housing.
- 5.21 Whilst the developer funds the Council's reasonable legal costs, there is limited staff resources available within NHC legal services and at the County Council.

NHC has been forced to outsource some section 106 agreements, in order to prevent delays to the process; but this requires the developer to fund these costs.

- 5.22 There are several signatories to a legal agreement and negotiations are tripartite between the developer, the County Council and North Herts Council. This can be a long and involved process involving many versions of a draft legal agreement before it is finally agreement by all the parties involved in the process.

Awareness of Funding

- 5.23 The current situation with regard s106 funding, availability and spend, was previously communicated once a year at meetings of the previous Area Committees by the Development and Conservation Manager. However, the IFS, which will be available online shortly, will provide greater awareness of what funds are available for infrastructure projects as it is publicly available and regularly updated.

Summary of what improvements can be made to the current mechanism?

- Improvements to the engagement of Parish Council's and Council departments through training both in the process of seeking planning obligations and also in the request for provision of funds.
- Improvements in the resourcing of legal support in the negotiation of S106 agreements, noting that recruitment for a permanent planning lawyer to the legal team has been ongoing since 2020 (and been unsuccessful). This was to replace one of the roles in the team and in the interim (until September 2022), that role was largely undertaken by the Legal Team Leader. When that person left, temporary staff have been employed in succession via agencies as the planning lawyer. It is also worth noting that the increasing numbers of developments within the adopted Local Plan, place additional pressures upon many teams – including Legal. Effectively the planning lawyer role is expected (as others do) to absorb that additional workload (including s106/ UU), and that is not feasible for one role in the longer term.

6. Alternative mechanisms and whether they would enable better outcomes for communities within the District

Community Infrastructure Levy

- 6.1 CIL captures financial contributions for infrastructure requirements resultant from proposed developments. It is a non-negotiable tax and is charged per square metre of chargeable development. A charging schedule is created in draft and consulted upon, at which point it is then examined by an independent inspector.

- 6.2 In setting rates in a charging schedule, the charging authority must strike a balance between the desirability of funding actual and expected infrastructure cost to support those developments, and the economic viability of those developments.
- 6.3 There are exemptions from CIL and processes in place to control that, such as the exemption for affordable housing. Contributions can be reduced through the submission of viability evidence.

Past consideration of CIL

- 6.4 CIL has been considered previously in July 2013, December 2018, January 2020 and on 16 March 2021 when it was resolved by Cabinet not to pursue CIL. The last report to Cabinet in 2021 set out the points for and against CIL.
- 6.5 The matters identified as weighing in favour are:
1. Greater certainty and consistency for developers, the Council and the community;
 2. A reduced need for complex negotiation for individual legal agreements – particularly those that require contributions to the County Council, such as education and highways; and
 3. Capturing contributions for smaller developments.
I would also add exemptions for affordable housing assisting in the delivery of affordable housing where there are viability issues.
- 6.6 Weighing against, the following were identified when last reported to Cabinet:
1. The Council would need to forward fund these given that the relief of administration costs can only commence once the CIL is implemented and collected
 2. Other considerations include that the largest sites (which form the significant majority of anticipated future development in terms of dwelling numbers, albeit from a relatively small number of planning applications) would still require s106 legal agreements even if a CIL were pursued and that CIL can be set at 'risk averse' levels.
 3. The time and resource implications of meeting the statutory implementation requirements and developing the necessary administrative infrastructure.
- 6.7 When this matter is viewed in isolation, officer analysis comes down in favour of introducing CIL reflecting the arguments above. However, when considering the matter in March 2021 the recommendation was accepted that at that time that CIL should not be pursued but that the matter should be revisited once the programme of works set out at that time relating to the implementation of the Local Plan and production of Supplementary Planning Documents is

substantially progressed, thereby freeing up officer resource and when there should be greater clarity on the Governments proposals for the possibility replacement of CIL.

- 6.8 The Local Plan Review has commenced with the timetable adopted by Cabinet in January 2025, and this matter will be considered as part of that review process.
- 6.9 The Government's long-term proposals for funding infrastructure through development remain unclear. The previous Government proposed to replace the current system of developer contributions with a mandatory and locally determined Infrastructure Levy. A framework for this was included in the Levelling Up & Regeneration Act. However, in December 2024, the current Government stated:

"We want to deliver the much-needed affordable housing local communities need and the wider infrastructure that will mitigate the impacts of new development. We believe the best way to achieve this will be to focus on improving the existing system of developer contributions, which means the Government is not implementing the Infrastructure Levy as introduced in the Levelling-up and Regeneration Act 2023".

As such, it seems reasonable to await Government direction on where it sees the future of funding.

Shaun Greaves
Development & Conservation Manager
28 January 2025

Case Study: Codicote Primary School

In 2019, the enlargement of Codicote Church of England Primary School by 1 form of entry was approved by Hertfordshire County Council. The need for expansion was largely as a result of the proposed housing developments in and around the village, and the funding for the scheme was to be predominantly from S106 funds. Specific reference to this mitigation project was identified and included within the adopted North Hertfordshire Local Plan, which also included details of the sequencing of development sites to facilitate delivery of the school expansion at the right time.

Four allocated housing development sites in the village were identified within the adopted North Hertfordshire Local Plan, and the S106 legal agreements linked to the planning permissions included proportionate contributions specifically to be allocated to the expansion of the school. The S106 financial contributions which were sought from these development sites were based on bespoke project costs. The County Council agreed to forward fund the expansion so that the places would be available for children as they moved into the village, with the remaining amount funded by Basic Need Grant. This approach was agreed on the basis that S106 monies would still be secured from subsequent development sites.

The enlargement of the school was completed in September 2023, costing £4.6m to deliver. So far, £2.4m of S106 funding has been collected and used for this project, from development sites at the Land adjacent to Oaklea and south of Cowards Lane (local plan allocation CD1), Codicote Garden Centre (local plan allocation CD2), and the Land south of Heath Lane (local plan allocation CD5). Further funding is still being collected as sites are developed and trigger points for payment of S106 monies are reached.

Case Study: Hitchin library

In 2022 there was a major project to expand the floorspace of Hitchin Library. The library was built in the 1960s with a large staff space on the upper floor. This was reconfigured, moving workroom space from the ground floor and freeing up space downstairs. This enabled additional capacity to be provided in the library in order to mitigate the growth in the area.

A creator Space facility was installed, using the increase in public floorspace and enhancing service provision to meet the needs of new residents. Additional resources to encourage digital creativity were included, and enhanced IT provision was installed.

Contributions from 11 different development sites, collected over the previous 8 years, were all used to contribute to the cost of this project, £133,100, which was exclusively funded by S106 contributions.

Case Study: High Street Graveley/North Road Junction Improvements

This project, completed in May 2024, was to address a long running, high accident rate involving traffic turning from the B197 Graveley road into North Road, whilst also providing the necessary infrastructure for residential and light industrial developments in North Stevenage.

The junction was signalised, whilst the walking routes between Graveley and Stevenage were also improved, including future proofing for shared cycle use, with new continuous street lighting installed to and from the A1M Junction 8.

S106 was provided from 2 sites, one in north Stevenage, and one in Graveley itself, amounting to £248,549. The total cost was £910,312, with the rest of the funding provided from Integrated Transport Plan grant funding.