

## **SECTION 106 PROCESSES AND CONSIDERATIONS**

### **Item OS 26/17 referred from Overview and Scrutiny Committee of 23 April 2026**

The report of the Director of Planning, Housing and Regulatory Services provided the Committee with an overview of the current approach to the management and monitoring of section 106 (s106) funding and proposed process improvements.

A proposed set of Terms of Reference for the s106 Strategic Monitoring Group was attached at Annex 1, a set of Terms of Reference for the Officer Monitoring Group at Annex 2, and a breakdown detailing the spend on projects relating to contributions held by the Borough Council and how these had been distributed and allocated were attached at Annex 3.

An explanation was provided on the monitoring approach, including the role of the external legal adviser, the use of a pro forma agreement, and the revised monitoring process intended to improve oversight and progress tracking. Reference was made to Parish Infrastructure Statements and the timetable for review, together with work underway to develop a Tonbridge Infrastructure Statement. It was also reported that a further update would be provided to the Committee in due course on the delivery status of various health infrastructure projects with s106 funding associated, given the impact that organisational changes across the county had on project delivery timescales.

In discussion, while recognising the success of utilising s106 contributions to assist the delivery of a significant number of local infrastructures, Members raised issues including clarity over health-related contributions, time limits on contribution spends, cumulative impacts of phased or multiple developments, and the relationship between health commissioning arrangements and delivery of primary care infrastructure. It was explained that the Borough Council was not a Community Infrastructure Levy charging authority and that s106 contributions were a funding collection mechanism rather than a delivery mechanism. However, officer engagement with partner bodies was ongoing to support delivery.

Furthermore, Members discussed parish engagement and communication, including the updating of Parish Infrastructure Statements and the practicalities of obtaining updated cost information. It was noted that consideration was being given to a more flexible approach with a view to improving engagement with parishes, subject to identification of a clear and sustainable operational process. Members also raised concerns regarding bus-related contributions, the sufficiency of funding, and the time taken to progress variation agreements, and noted the responsibility for legal work and constraints on the use of contribution funds to meet legal fees.

Overall, Members acknowledged the improvements in the availability and clarity of section 106 data for monitoring group members and supported the suggestion to align wider data reporting with scrutiny committee cycles going forward.

On the grounds of supporting an improved s106 monitoring process, Councillor T Bishop proposed, Councillor L Athwal seconded, and the Committee

**RECOMMENDED\*:** That

- (1) the information provided in this report, including the next steps proposed for developing the Borough Council's approach to section 106 obligations as set out at Section 11 of the report, be noted; and
- (2) the proposed Terms of Reference for the Member and Officer Monitoring Groups, attached at Annex 1 and Annex 2 respectively, be endorsed and commended to Cabinet for adoption.

**\*Recommended to Cabinet**