

Committee: **Regulatory
Planning Committee**

Date: **27 May 2009**

Report By: **Director of Transport and Environment and Director of Law and
Personnel**

Title of Report: **Delegation of Agreements under Section 106 of the Town and
Country Planning Act 1990**

Purpose of Report: **To seek the Planning Committee's approval to recommend
changes to the scheme of delegated powers in relation to the
variation of Agreements made under Section 106 of the Town
and Country Planning Act 1990**

**RECOMMENDATION – To recommend to the Governance Committee and the County
Council that:**

The Director of Transport and Environment, be delegated Authority to consider requests for variations to agreements made under s106 Town and Country Planning Act, and where considered appropriate, in consultation with relevant Directors, to authorise the County Council to participate in such variations.

Supporting Information

1. Introduction

1.1 This report seeks approval for the principle of amending the constitution to enable the Director of Transport and Environment, to consider requests for variations to agreements made under s106 Town and Country Planning Act 1990 and, where appropriate, following consultation with other Directors, to authorise the participation in variations to Section 106 Agreements.

2. Background

2.1 Due to the economic downturn, proposals for variation of Section 106 Agreements are expected to increase as landowners and developers press the District Planning Authorities and the County Council to work with them to enable developments that are not financially viable to go ahead and to agree, where appropriate, variations to the Section 106 Agreements.

2.2 Section 106A of the Town and Country Planning Act 1990 provides that any variations to agreements made under Section 106 within 5 years have to be agreed by all of the original parties or their successors.

2.3 Consequently, even though most of the Section 106 Agreements in which the County Council participates relate to matters determined by the District and Borough Councils, it is necessary for the Council to be in a position to respond to requests for variations. The majority of Section 106 Agreements to which the Council is party relate to development

contributions towards the County Council's infrastructure and facilities pursuant to the adopted supplementary planning guidance 'A New Approach to Development Contributions'.

2.4 Although the constitution enables the Director of Transport and Environment to authorise the Council to participate in Section 106 Agreements, it does not allow him to authorise the County Council to agree variations to such agreements.

3. Conclusions and Reasons for Recommendations

3.1 All variations to planning obligations must be individually approved by Planning Committee. Having regard to the expected increase in requests for adjustments to Section 106 Agreements designed to enable developments that are not financially viable to go ahead, it is necessary for the County Council to consider such requests and where appropriate participate in such variations.

4. Recommendation

4.1 To recommend to the Governance Committee and the County Council, that the Director of Transport and Environment be delegated Authority to consider requests for variations to agreements made under s106 Town and Country Planning Act, and where considered appropriate, in consultation with relevant Directors, to authorise the County Council to formally agree variations to such agreements.

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Local Members: All

BACKGROUND DOCUMENTS

1. 'A New Approach to Development Contributions' – the interim supplementary planning guidance [Adopted by the County Council's Cabinet in July 2003] (the SPG)
2. The Local Sustainable Accessibility Improvements Contributions Methodology addendum to the SPG [Adopted by the Council Council's Cabinet in June 2004]
3. The Updated Information on Stress Areas and Contribution Costs – 2009 [Approved by the Council Council's Lead Cabinet Member for Transport and Environment in March 2009]