

<b>This report is public</b>	
<b>Performance of S106 Delivery</b>	
<b>Committee</b>	Overview and Scrutiny Committee
<b>Date of Committee</b>	24 March 2026
<b>Portfolio Holder presenting the report</b>	Councillor Jean Conway, Portfolio Holder for Planning and Development Management
<b>Date Portfolio Holder agreed report</b>	
<b>Report of</b>	Assistant Director - Planning and Development

## Purpose of report

To provide an overview of the Section 106 agreement and infrastructure delivery process, and a review of infrastructure delivery in Cherwell from a health perspective.

## 1. Recommendations

The Overview & Scrutiny is recommended to:

1.1 Note a presentation covering:

- An overview of how section 106 obligations are agreed
- An overview of how section 106 obligations monitored and delivered
- Factors and constraints behind infrastructure delivery
- A spotlight on s106 health contributions

1.2 Note key findings for health contributions currently held by the Council and trends in health contributions secured between 2019/20 and 2024/25.

## 2. Executive Summary

2.1 Section 106 agreements secure infrastructure contributions to mitigate the impacts of development. In some cases, infrastructure is not secured at the planning stage, either because evidence-based requests are not available, or because viability considerations limit what can be achieved. The Council is required to publish an annual Infrastructure Funding Statement (IFS) setting out contributions secured, received, held and spent. This report provides an overview of the Section 106 process and highlights the factors that influence both the securing and delivery of obligations, with a focus on health contributions in Cherwell.

## Implications & Impact Assessments

Implications	Commentary			
<b>Finance</b>	<p>There are no financial implications arising directly from this report. The figures quoted have not been verified by Finance.</p> <p>Joanne Kaye, Head of Finance, 13 March 2026</p>			
<b>Legal</b>	<p>There are no legal implications arising directly as a result of this report.</p> <p>This report and the supporting appendices provide an overview of how the S106 obligations are agreed, monitored and delivered.</p> <p>Legal services provide advice and support formalising and enforcing these obligations through drafting and advising on the S106 agreements.</p> <p>Denzil – John Turbervill, Head of Legal Services, 13 March 2026</p>			
<b>Risk Management</b>	<p>There are no immediate risks arising directly from this report; however, delays in securing or delivering Section 106 obligations may affect the timely provision of supporting infrastructure. Dependencies on external partners, viability constraints, and variable development trajectories can introduce uncertainty, requiring ongoing monitoring and liaison to ensure obligations are met and potential clawback risks are avoided.</p> <p>Celia Prado-Teeling, Performance &amp; Insight Team Leader, 13 March 2026</p>			
<b>Impact Assessments</b>	Positive	Neutral	Negative	Commentary
<b>Equality Impact</b>		<input checked="" type="checkbox"/>		<p>There are no implications arising from the gathering and publication of this data.</p> <p>Celia Prado-Teeling, Performance &amp; Insight Team Leader, 13 March 2023</p>
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		<input checked="" type="checkbox"/>		Not applicable
<b>B</b> Will the proposed decision		<input checked="" type="checkbox"/>		Not applicable

have an impact upon the lives of people with protected characteristics, including employees and service users?				
<b>Climate &amp; Environmental Impact</b>		<input checked="" type="checkbox"/>		Not applicable
<b>ICT &amp; Digital Impact</b>		<input checked="" type="checkbox"/>		Not applicable
<b>Data Impact</b>		<input checked="" type="checkbox"/>		Not applicable
<b>Procurement &amp; subsidy</b>		<input checked="" type="checkbox"/>		Not applicable
<b>Council Priorities</b>	Corporate plan priorities for 2025-2026: <ul style="list-style-type: none"> <li>• Economic prosperity</li> <li>• Community leadership</li> <li>• Environmental stewardship</li> <li>• Quality housing and place making</li> </ul>			
<b>Human Resources</b>	N/A			
<b>Property</b>	N/A			
<b>Consultation &amp; Engagement</b>	Councillor Jean Conway, Portfolio Holder – Planning & Development Management			

## Supporting Information

### 3. Background

- 3.1 Planning obligations mitigate the impacts of development and must be necessary, directly related to the development, and reasonable in scale and kind. In Cherwell, obligations are secured through Section 106 legal agreements.
- 3.2 The Council must publish an annual Infrastructure Funding Statement (IFS), setting out the infrastructure contributions secured, received, spent and/or held each financial year. The last IFS was published in December 2025, covering the 2024/25 financial year.
- 3.3 Concerns may arise where development appears to progress ahead of supporting infrastructure, or where infrastructure is not secured at all.

## 4. Details

- 4.1 The presentation will outline the Section 106 process in two parts. The first part covers how contributions are negotiated and secured, including assessing whether the package of obligations sufficiently mitigates the impacts of development in line with planning policy.
- 4.2 Viability is an important consideration during negotiation. Some agreements include viability review mechanisms, used where full policy-compliant contributions are not considered deliverable at the decision stage. These reviews allow the authority to capture additional contributions if viability improves as the development progresses.
- 4.3 All planning obligations must meet the statutory tests of being necessary, directly related to the development, and fairly and reasonably related in scale and kind. In Cherwell, obligations should be consistent with the Developer Contributions Supplementary Planning Document (2018), which sets out the expected types and levels of contribution and provides clarity and consistency for applicants.
- 4.4 In some cases, infrastructure is not secured at the planning stage because the relevant service provider is unable to provide an evidence-based request within the required timescales. Where no evidence-based request is made, the Council cannot include an obligation in a Section 106 agreement, even where the community may perceive a need.
- 4.5 The second part of the process relates to monitoring, implementation, and enforcement once an agreement is in place. This includes checking that trigger points are met, ensuring that financial payments are made on time, and confirming delivery of non-financial obligations such as affordable housing, open space, highways works, or travel plans.
- 4.6 Effective monitoring is essential because Section 106 agreements often operate over long periods and may involve multiple phases or land parcels. Officers must maintain up-to-date records, liaise with developers and internal service areas, and take action where obligations fall behind programme. Where appropriate, formal enforcement powers may be used to secure compliance.
- 4.7 These processes collectively help ensure that development is supported by appropriate infrastructure and that the impacts of growth are mitigated in a fair, proportionate and policy-led manner.
- 4.8 Section 106-funded projects often involve a typical lead-in period before delivery can begin. Financial contributions are received only when specific development triggers are reached, meaning that infrastructure providers can proceed once the required funding is in place. This timing reflects the phasing and pace of housebuilding rather than administrative delay.
- 4.9 In some cases, viability assessments determine that only a reduced package of contributions can be secured. When this occurs, certain types of infrastructure may not be included within an agreement. These outcomes reflect the viability considerations associated with the development at the time decisions are made.

- 4.10 Many infrastructure projects, particularly larger schemes such as health facilities, education provision, or transport improvements, require pooled contributions from multiple developments. As different sites progress at varying speeds, funding typically accumulates over time. Delivery can commence once sufficient pooled funding has been secured to progress the project.
- 4.11 Delivery timescales can also be influenced by construction cost inflation and market conditions. Although contributions are index-linked, increases in construction costs may exceed indexation, creating funding gaps that need to be resolved through additional financing, revised project scopes, or phased implementation. These factors can extend the lead-in period between receipt of contributions and delivery on the ground.
- 4.12 A range of technical, procedural and regulatory requirements also shape delivery timescales. These may include detailed design work, statutory approvals, procurement processes, land and property considerations, environmental factors, and contractor availability. Larger or multi-agency projects often involve several stages of preparation and coordination, which can result in multi-year delivery periods.
- 4.13 Taken together, these factors explain why Section 106-funded infrastructure is not immediately delivered once obligations are secured, and why delivery timescales vary between projects. Strong programme management and cross-team working help manage these constraints and support timely and effective delivery.
- 4.14 A further factor is the dependence on external delivery partners. For health contributions, funds are released once the BOB ICB identifies a deliverable project. Where requests have not yet been made, contributions remain held until required.
- 4.15 The IFS provides transparent information to the public about the infrastructure secured and delivered in Cherwell. Focusing on healthcare infrastructure specifically, the key messages from the IFS reports are as follows:
1. £580,000 is currently held by the Council for healthcare infrastructure. The money is held by the Council until requested for a project by the BOB ICB.
  2. The Council has not received any formal health project requests since IFS reporting began (2019/20).
  3. All but one financial health contribution were received since 2021; the oldest funds were received in 2017.
  4. No funds have been identified at risk of 'clawback' until 2035.
  5. 48% of residential section 106 agreements since 2021 included a health scheme. All but one health schemes were financial contributions; one physical health scheme was secured.
  6. Across all developments, an average of £600 has been secured per dwelling since 2021.
- 4.16 The Committee is invited to note the above findings.

## 5. Alternative Options and Reasons for Rejection

- 5.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: Seek review of the statistics. Officers consider that this is not required as the information aligns with published Infrastructure Funding Statements.

## 6 Conclusion and Reasons for Recommendations

- 6.1 Developer contributions help mitigate the impacts of new development, but some, such as health contributions, cannot be secured without clear evidence of need, local policy support, or where viability limits what can be achieved.
- 6.2 On delivery, the Council holds around £580,000 in health contributions awaiting requests from the BOB ICB. More broadly, project delivery can depend on pooled funding, market conditions, and the natural lag between housebuilding and infrastructure provision.

### Decision Information

<b>Key Decision</b>	No
<b>Subject to Call in</b>	No
<b>If not, why not subject to call in</b>	N/A
<b>Ward(s) Affected</b>	All

### Document Information

<b>Appendices</b>	
<b>Appendix 1</b>	Performance of S106 Delivery Presentation Slides
<b>Appendix 2</b>	S106 Health Contribution Data - Funds Held
<b>Appendix 3</b>	S106 Health Contribution Data – Funds Secured
<b>Background Papers</b>	None
<b>Reference Papers</b>	Developer Contributions Supplementary Planning Document (SPD) (February 2018)
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<b>Corporate Director Approval (unless Corporate Director or Statutory Officer report)</b>	Ian Boll, Corporate Director for Place & Regeneration, 13 March 2026
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