

# Decision Record – Response to Communities and Local Government Consultation – Renegotiation of Section 106 Planning Obligations

## Cabinet Portfolio Holder taking decision

Councillor Alan Cockburn – Sustainable Communities

**Date of Decision:**  
**(NOT BEFORE – 23<sup>rd</sup> November 2012)**

26 NOVEMBER 2012

## Decision taken

That I, as Portfolio Holder for Sustainable Communities, approves the County Council's response to the consultation, as outlined at **Appendix A**.

## Reasons for Decisions

In brief, the Council welcomes the changes but also believes that other evidence and options to make site more viable should be considered before any re-negotiations take place. We also point out some potential technical loopholes that could be exploited by developers to landbank their sites i.e. pay lower levels obligations and then mothball sites until the economic conditions improve.

## Background Information/ factors considered in arriving at these decisions - (set out below and in the officer report):

### Background:

At present, the Section 106A of the Town and Country Planning Act 1990 allows voluntary renegotiation of a planning obligation at any time. Where voluntary agreement cannot be reached there may be a formal request to reconsider an obligation when that obligation is 5 years old. The local authority must take a decision on such a request. If the local authority decision is not to renegotiate terms then there is a right to appeal to the Planning Inspectorate.

The government is consulting on proposals for all planning obligations agreed on or prior to the 6th April 2010, the relevant local authority can be asked to formally renegotiate the terms one month after the introduction of new regulations. For all planning obligations agreed after 6th April 2010, the period will remain at 5 years. There will be no change to the ability to renegotiate obligations voluntarily at any time, and the Department encourages this to happen where appropriate.

The government is proposing that for all planning obligations agreed on or prior to the 6th April 2010, the relevant local authority can be asked to formally renegotiate the terms one month after the introduction of new regulations. The County Council's response to the consultation is contained in the questionnaire, as outlined at **Appendix A.**

**Financial Implications:**

As a result of re-negotiation of S106 agreements, there is a potential for the County Council to receive less money for supporting infrastructure that is provided by the County Council. However, we are only obliged to provide infrastructure for which we receive money. Therefore, there will not be budget pressures to pay for facilities or infrastructure to support developments.

Report Author:	Jasbir Kaur
Head of Service:	Louise Wall
Strategic Director:	Monica Fogarty
Portfolio Holder	Councillor Alan Cockburn

## Checklist

**Urgent matter: yes/no\***

No

**Confidential or Exempt (state category of exempt information)**

No

**Is the decision contrary to the budget and policy framework?**

No

**List of Reports considered** [please attach or forward a copy]

Report from author

**List of Background Papers** [please include directorate contact names and numbers for access to background papers]

CLG - Renegotiation of Section 106 planning obligations  
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2196058.pdf>

**Any members and officers consulted or informed and any comments given.**

Cllr Alan Cockburn (Portfolio Holder)  
Cllr Helen Walton  
CORPORATE BOARD  
Legal – Ian Marriott, Peter Oliver, Peter Endall, John Gregory  
Finance – Liz Firmstone  
Equality – Tejay De Kretser  
Democratic Services – Georgina Atkinson

Communities O&S:

Cllr John Whitehouse (LD Chair)  
Cllr Chris Saint (Vice Chair & C Spokes)  
Cllr Ray Sweet (L Spokes Environment)