

PERFORMANCE MANAGEMENT SCRUTINY COMMITTEE AGENDA

Wednesday, 27th July 2022 at 7.15pm

Council Chamber, Braintree District Council, Causeway House, Bocking End,
Braintree, CM7 9HB.

Members of the public will be able to view and listen to this meeting via YouTube.
To access the meeting please use the link below:

<http://www.braintree.gov.uk/youtube>

Members of the Performance Management Scrutiny Committee are requested to attend this meeting to transact the business set out in the Agenda.

Councillor J Coleridge
Councillor G Courtauld
Councillor Mrs C Dervish
Councillor Mrs T Everard
Councillor M Radley (Chairman)

Councillor S Rehman
Councillor B Rose
Councillor P Schwier (Vice-Chairman)
Councillor N Unsworth

Members unable to attend the meeting are requested to forward their apologies for absence to the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by 3pm on the day of the meeting.

A WRIGHT
Chief Executive

INFORMATION FOR MEMBERS – DECLARATIONS OF MEMBERS' INTERESTS

Declaration of Disclosable Pecuniary Interests (DPI), Other Pecuniary Interests (OPI) or Non-Pecuniary Interests (NPI).

Any Member with a DPI, OPI or NPI must declare the nature of their interest in accordance with the Code of Conduct. Members must not participate in any discussion of the matter in which they have declared a DPI or OPI or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the Chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

Public Question Time – Registration and Speaking:

The Agenda allows for a period of up to 30 minutes for Public Question Time.

Members of the public wishing to participate are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by midday on the second working day before the day of the Committee meeting. For example, if the Committee meeting is due to be held on a Tuesday, the registration deadline is midday on Friday, (where there is a bank holiday Monday you will need to register by midday on the previous Thursday). Public Question Time speakers may participate in person or virtually. Speaker preference must be indicated upon registration.

The Council reserves the right to decline any requests to register for Public Question Time if they are received after the registration deadline.

The public may ask questions on any matter listed on the Agenda for this meeting. All questions or statements should be concise and should be able to be read within the 3 minutes allotted for each question/statement.

The Chairman of the Committee has discretion to extend the time allocated for public question time and to amend the order in which questions/statements are presented to the Committee.

Public Attendance at Meetings:

Public attendance is welcomed, but is subject to restrictions due to the Council's arrangements for keeping Causeway House Covid secure and visitors safe.

Public attendance is limited and will be on a first come first served basis with priority given to Public Registered Speakers. In order to maintain safe distances, the Council may have to refuse entry to members of the public. The public may not be able to sit in the Council Chamber, but will be able to observe the meeting from a public gallery through a large screen. Alternatively, the Council meetings are webcast and are available via the Council's YouTube Channel and can be viewed by the public as a live broadcast, or as a recording following the meeting.

Public speakers and public attendees are required to attend on their own, and where possible only one representative of any community group, family household or Company should attend. Members of the public intending to come to Causeway House to observe a meeting are recommended to watch the meeting via the webcast, or to contact the Governance and Members Team to reserve a seat within the public gallery.

Health and Safety/COVID:

Causeway House is a Covid secure building and arrangements are in place to ensure that all visitors are kept safe. Visitors are requested to follow all instructions displayed at Causeway House or given by Officers during the course of their attendance.

Anyone attending meetings is asked to make themselves aware of the nearest available fire exit. In the event of an alarm you must evacuate the building immediately and follow all instructions provided by staff. You will be directed to the nearest designated assembly point until it is safe to return to the building.

Documents: Agendas, Reports and Minutes can be accessed via www.braintree.gov.uk

Data Processing: During the meeting the Council will be collecting performance data of participants' connectivity to the meeting. This will be used for reviewing the functionality of MS Teams/Zoom and YouTube as the Council's platform for virtual meetings and for monitoring compliance with the legal framework for Council meetings. Anonymised performance data may be shared with third parties.

For further information on how the Council processes data, please see the Council's Privacy Policy.

https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy

Mobile Phones:

Please ensure that your mobile phone is switched to silent during the meeting in order to prevent disturbances.

Webcast and Audio Recording:

Please note that this meeting will be webcast and audio recorded. You can view webcasts for up to 6 months after the meeting using this link: <http://braintree.public-i.tv/core/portal/home>. The meeting will also be broadcast via the Council's YouTube Channel.

Comments and Suggestions:

We welcome comments to make our services as efficient and effective as possible. If you have any suggestions regarding the meeting you have attended, you can send these to governance@braintree.gov.uk

PUBLIC SESSION

1 Apologies for Absence

2 Declaration of Interests - Scrutiny Committee

1. To declare the existence and nature of any interests relating to items on the agenda having regard to the Code of Conduct for Members and having taken appropriate advice (where necessary) before the meeting.
2. To declare the existence and nature of any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any matter before the Committee or the application or threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote on any particular matter.

3 Minutes of the Previous Meeting

To approve as a correct record the minutes of the meeting of the Performance Management Scrutiny Committee held on 18th May 2022 (copy previously circulated).

4 Public Question Time

(See paragraph above)

5 Scrutiny Review into Section 106 - First Evidence Gathering Session

For this evidence gathering session, the Committee will receive the following:

- 1) A presentation from Dominic Collins, Corporate Director (Growth) and Emma Goodings, Head of Planning and Economic Growth on Section 106. This item also includes a presentation from Kerry Harding, Director of Estates for CCGs in Mid and South Essex on NHS requirements for Section 106.
- 2) A reading list, including to links to online resources around Section 106 (see pages 6 to 9).

6 Urgent Business - Public Session

To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.

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Report Title: Scrutiny Review into Section 106 – Reading List and Links	
Report to: Performance Management Scrutiny Committee	
Date: 27 th July 2022	For: Noting
Key Decision: No	Decision Planner Ref No: N/A
Report Presented by: Jessica Mann, Governance and Members Manager	
Enquiries to: Jessica Mann, Governance and Members Officer Jessica.mann@braintree.gov.uk	

1. Purpose of the Report

- 1.1 To inform Members of the Performance Management Scrutiny Committee that they will be receiving a presentation from officers on Section 106.

2. Summary

- 2.1 Members will receive a presentation from Dominic Collins, Corporate Director (Growth) and Emma Goodings, Head of Planning and Economic Growth around Section 106 as part of the Committee's first evidence gathering session. A presentation will also be provided by Kerry Harding, Director of Estates for CCGs in Mid and South Essex.
- 2.4 In order to assist Members with their understanding of Section 106, a reading list with links to online resources has been included to provide Members with some background information in advance of the meeting on 27th July 2022.

3. Financial Implications

- 3.1 There are no financial implications arising from this report.

4. Legal Implications

- 4.1 There are no legal implications arising from this report.

5. Other Implications

- 5.1 None.

6. Equality and Diversity Implications

- 6.1 Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act

- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 6.3 This meeting is an evidence gathering session only and no decisions will be made; therefore, it is not necessary for an Equalities Impact Assessment to be undertaken.
- 7. List of Appendices**

None.
- 8. Background Papers**
 - 8.1 [Terms of Reference](#) for the Scrutiny Review.

Section 106 Reading list

National legislative and policy background

- S106 of the Town and Country Planning Act 1990 (which gives S106 its name):
[Town and Country Planning Act 1990 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1990/24/section/106)
- The Community Infrastructure levy Regulations 2010 – in particular regulation 122 which sets out the tests which planning obligations must meet:
[The Community Infrastructure Levy Regulations 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2010/2784/section/122)
- Paragraphs 55 – 58 of the National planning Policy Framework (NPPF) on developer obligations:
[National Planning Policy Framework - 4. Decision-making - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/262412/NPPF-4-Decision-making-Guidance-2012.pdf)
- National planning policy Guidance (NPPG) on developer contributions:
[Planning obligations - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/262412/NPPG-4-Decision-making-Guidance-2012.pdf)

Braintree District Council documents

- Guidance pages on Council website:
[About section 106 agreements and unilateral undertakings – Section 106 agreements and unilateral undertakings – Braintree District Council](https://www.braintree.gov.uk/section-106-agreements-and-unilateral-undertakings)
- Infrastructure funding statements:
[Section 106, completed agreements and balances – Completed Section 106 agreements, balances and projects – Braintree District Council](https://www.braintree.gov.uk/section-106-completed-agreements-and-balances)
- Open Spaces Action Plan:
[Open spaces action plan – Braintree District Council](https://www.braintree.gov.uk/open-spaces-action-plan)
- Infrastructure Delivery Plan:
[bdc058-infrastructure-delivery-plan-update-june-2021 \(braintree.gov.uk\)](https://www.braintree.gov.uk/bdc058-infrastructure-delivery-plan-update-june-2021)
- Open Spaces Evidence Base:
[BDC040 Open Spaces Study Combined Reports – Braintree District Council](https://www.braintree.gov.uk/bdc040-open-spaces-study-combined-reports)
- Current Open Spaces SPD (to be updated following adoption of the Plan):
[Open Space SPD November 2009 – Braintree District Council](https://www.braintree.gov.uk/open-space-spd-november-2009)
- RAMs (Recreational Avoidance and Mitigation Strategy) SPD (collected across Essex via S106):

[Essex Coast RAMS Braintree SPD Adoption Statement – Braintree District Council](#)

- Planning Public Access system to look up individual S106 agreements linked to planning applications:

[Simple Search \(braintree.gov.uk\)](http://braintree.gov.uk)

- The below is a link to a case which has a fairly standard S106 agreement attached to it:

[18/01065/OUT | Outline planning permission for residential development \(C3\) for up to 120 dwellings with all matters reserved except access and the demolition of nos. 27 and 29 Gilda Terrace. | Land South Of Gilda Terrace And North Of Flitch Way Braintree Essex](#)

Other

- Essex County Council guide to infrastructure contributions:

[Developers' Guide for Infrastructure Contributions \(ctfassets.net\)](http://ctfassets.net)

- Levelling up and Regeneration Bill (section on delivering infrastructure):

[Levelling Up and Regeneration: further information - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

- Example of Essex authorities that use Community Infrastructure Levy as well as S106:

[Community Infrastructure Levy \(CIL\) - Chelmsford City Council](#)

[Community Infrastructure Levy \(CIL\) – Southend-on-Sea City Council](#)