



Planning Services Team

Section 106 Agreements

The purpose of this Fact Sheet is to provide CDALC Executive Members with answers to frequently asked questions surrounding 106 Agreements.

1: What are Section 106 Agreements?

A: 106 Agreements (or planning obligations to use the more formal title) are legally binding agreements entered into between the Council and developers as part of decisions to grant planning permission for major development proposals.

2: What areas do they usually cover I how are they arrive at?

A: In theory, the use of 106 Agreements can be very wide; so long as the Council is confident that what it is seeking to require through an agreement is necessary to allow a development to proceed on planning grounds. In practice the most common use of 106 Agreements in Durham has been to secure financial payments off developers for sport and leisure purposes in lieu of adequate provision being made on site as part of a new housing scheme. Agreements are also often secured to deliver affordable housing and payments towards the cost of education places.

3: How Can Local Council's Influence the Drafting of Section 106 Agreements?

A: The report to planning committee will explain what the S106 Agreement will deliver as part of an approval. If Local Council's feel an application should provide an element of infrastructure and/or payment in kind through a S106 Agreement they should contact the Planning Officer dealing with the application as soon as possible after they are consulted on a planning application. This allows an early discussion to be held between the LC and Planning Officer as to whether or not the request would meet the relevant planning tests and can then be put to a developer.

4: Once 8106 monies have been secured how is it decided where they are spent?

A: Money can only be spent for a purpose appropriate for the reason for entering into the agreement in the first place. This will be set out in the report presented to Planning Committee on the application. For example. It would be unlawful to spend money which had been received in lieu of play areas being provided on a new housing scheme, on say highway improvements. Similarly, the Council's policy advises that monies should normally be spent within the same Electoral Division in which the development occurred. Members have an important role to play in trying to identify projects against which S106 money can be spent and LC's are encouraged to liaise with their County Members in this respect.

5: Who can apply to use 106 money once it has been received?

A: The Council's policy on the allocation of 106 monies acknowledges that applications are welcomed from any organisation that may be looking to promote a suitable scheme in a locality. Local Council's may apply to access S 106 money (and many have over the years).

6. How are decisions made on where money will be allocated to?

A: Planning Services have a model application form for people wishing to apply for S106 money. County Members, the AAP and Local Council (if applicable) or an area are consulted on applications to spend S106 money in their areas. Decisions on applications received are made by the Council's 106 Working Group (which includes relevant lead officers and the portfolio holders for Regeneration and Assets).

7: How will I find out about new 106 Agreements, including where monies are available for allocation?

A: Planning Services maintain a register of all S106 Agreements entered into. In addition, the Planning Development Manager updates Members and LC's quarterly with details of where monies are available for allocation