

Plain English guide to Section 106 and Community Infrastructure Levy for town and parish councils



We recognise that when developers build new houses, the development will have an impact on the local community. For example, the growth in the local population might lead to greater pressure on social or sports facilities; or an increase in traffic. We can use Section 106 Agreements and the Community Infrastructure Levy to require developers to pay for projects to help manage the impact of developments.

Section 106 Agreements

These agreements are negotiated between the District Council and the developer. Under the Government's National Policy Planning Framework (NPPF), which sets out the Government's planning policies and how they should be delivered, we can only ask for funds for projects which meet the 'three tests':

- the project is necessary to make the development acceptable in Planning terms
- it is directly related to the development; and
- it is fairly and reasonably related in scale and kind to the development

The table below shows how this might work in practice:

Test (as set out in the NPPF)	We <u>can</u> ask for funding if ...	We <u>can't</u> ask for funding if ...
Necessary to make the development acceptable in Planning terms.	A community hall or sports club is already operating at full capacity and the development will increase the demand further.	There is spare capacity at local facilities even allowing for the increased demand due to the development.
Directly related to the development.	There is a play area next to the development which needs new equipment and which residents of the development will use.	There is a play area some distance away from the development which needs new equipment but which the new residents are unlikely to use.
Fairly and reasonably related in scale and kind to the development.	There is already traffic congestion and the new development will increase the problem by 20%. We could request a contribution of 20% of the total cost of fixing the	There is already a traffic problem but the new development won't make it significantly worse. (Section 106 funding can't be used to tackle 'existing' problems not linked to the

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We will shortly be producing a new document, 'Section 106 Planning Obligations Interim Guidance'. This will contain more detailed information and should be available soon.

How are Section 106 Agreements created?

The District Council negotiates Section 106 Agreements directly with the developer. Where large scale development is expected, we will usually consult you in advance, so that we know what your needs are. In other cases we will usually consult with you to make sure your views are considered in the Agreement.

When is the money paid?

The money is paid when the development reaches a certain stage, which might be when building starts; when the first house is sold and occupied; when the 100th house is occupied, and so on. These stages are called 'trigger points'. As it may be some time before these trigger points are reached, there may be a long delay – possibly several years if it's a large development – before payments are made.

How is the money paid?

Most Section 106 Agreements are straightforward and the Agreement says exactly what the money is for, e.g. 'providing new play equipment at the village hall'. Once the trigger point (see above) is reached we will write offering you the money and you need to reply agreeing that you will spend the money in the agreed way.

Some of our older Agreements are less specific, for example saying that the money is for 'improving the provision of open space in the parish'. In these cases you will need to complete a form (*link*) setting out what you plan to do. Provided we are happy that this is the best use of the money available, we will proceed with the payment.

How long do we have to spend the money?

There is usually a time limit on spending the money. We'll make this clear when we write to you offering the money. You will need to let us know when the project is completed.