

# FACTSHEET PLANNING S106

## WHAT ARE SECTION 106 FUNDS?

'Section 106 Agreements' (also known as Planning Agreements /Planning Gain/Developer Contributions/Community Infrastructure Levy) under Section 106 (s106) of the Town and Country Planning Act 1990 (as amended) are negotiated between the Council and the applicant/developer (and any others that may have an interest in the land) and are legally binding.

When a planning application is submitted to the Council, an assessment is carried out to determine the level of adverse impact of the proposed development. S106 Agreements are used to mitigate any adverse impacts by securing: contributions; services; affordable housing; infrastructure; and amenities either by undertaking specific works and/or a monetary contribution (commuted sum) to enable the Council to undertake the relevant works itself.

The requirements for s106 funding will vary according to the size, viability, impact and nature of the proposed development. All planning applications are assessed on a case by case basis and not all developments will require obligations. The key legal and policy tests for establishing a Planning Obligation are defined in the Community Infrastructure Levy Regulations 2010 and National Planning Policy Framework which state that s106 Agreements should only be used where they meet all of the following:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

## PLANNING POLICIES & NEGOTIATIONS

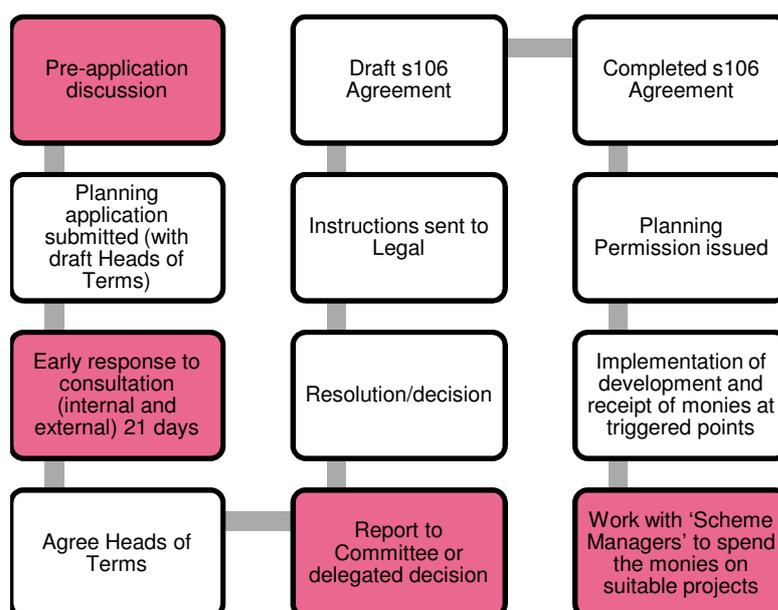
Local Planning Policies, Supplementary Guidance and Neighbourhood Plans etc. form the basis of the Council's justification for s106 requirements and subsequent negotiations. It is essential to understand this policy context.

## HOW & WHEN TO GET INVOLVED?

It is vital that the process for dealing with s106 monies is robust, effective and transparent.

The Council encourages all Ward, Town and Parish Councillors to take an early active role in agreeing and negotiating the content of a s106 Agreement during the planning consultation process. An invitation to comment on an application is issued by the Planning Case Officer by email to individual Ward Councillors and also to the Town/Parish Council Clerk. Where a s106 forms part of the planning application, you are advised to submit s106 comments/proposals regardless of your support or objection.

Your opportunity to get involved in the process:



# FACTSHEET PLANNING S106

## WHEN DO WE RECEIVE MONIES?

Not all monies are received upon completion and signing of the s106 Agreement. Payments are often linked to a 'trigger' such as commencement of development, occupation, completion of a road etc.

When s106 Agreements are triggered and the monies received by the Council, Ward Councillors are notified, including the amount and scope of the funds received. The s106 Monitoring Officer allocates a Council 'Scheme Manager' based on the service to deliver.



S106 monies secured for highways and infrastructure improvements

## PAYING MONIES BACK

If s106 money is not spent i.e. within the agreed specified period set out in the Agreement or where the planning permission was not implemented, it can and must be returned to the applicant/developer.

The s106 Officer alerts Service Managers and Ward members of impending one and two year deadlines so that this is avoided.



S106 monies secured for implementation of the Council's Parks Strategy

## KEY CONSIDERATIONS

- Any funding required must be in line with national and local legislation and policies
- The agreement is legally binding between the parties
- The Council holds the funding on trust for the developer/landowner – ensuring that the funding must be spent in accordance with the agreement
- Monies are allocated to specific projects for implementation at specific times and cannot be transferred/redirected to other areas or projects
- Funding is sometimes in the pipeline, dependant on triggers and phasing of development
- Funding is sometimes not forthcoming at all as contributions are linked to implementation of planning permission
- The Council's position demonstrates successful negotiation and effective monitoring

## CONTACT & QUESTIONS

If you have any questions or need further information, please contact the s106 Monitoring Officer:

Judith Cosgrove  
 T: 01270 686733 (internal extension 86733)  
 E: [judith.cosgrove@cheshireeast.gov.uk](mailto:judith.cosgrove@cheshireeast.gov.uk)