

How does s106 Work?

The way that s106 currently works is as follows:

- **Applicable Policy:** Core Strategy Planning Policies set the areas of funding which can be sought in principle, namely:
 - Affordable Housing (formula based)
 - Education (largely formula based but named schools required)
 - Transport (site/project specific schemes required)
 - Open space/Sports provision (site/project specific schemes required)
 - Community facilities eg health facilities (site/project specific schemes required)
- **Relationship with applications for planning permission:** The Government's rules require that all contributions which relate to specific projects need to be clearly based upon evidence of that the money spent **will alleviate direct impacts that the generating development** will have upon the locality. In the case of education/ health infrastructure this linkage needs to be driven by any education/Public health/CCG requirements/consultations as these are specialist areas and 106 sums need to be aligned with other existing funding programmes because 106 money on its own will not generally cover whole project costs.
- **Relationship with Council Capital and Project development programmes:** s106 can be used to contribute to schemes which are part of the emerging delivery programmes but needs to be clearly linked to the identified development impacts. The development of projects can anticipate the potential for s106 contributions but these would only become available should an eligible planning application be received and the developer be willing to enter into the specifics of the agreement.
- **Developing 'Pools' of potential projects:** Therefore service departments are requested to consider on an application by application basis what projects could be linked to applications as they are submitted- so it is helpful for these colleagues to have a 'pool' of projects which can be selected from in this context, and that was one of the intended outcomes of the three constituency meetings- to seek views and agree local Cllr priorities for schemes already in the programme, and to ask for ideas for new projects
- **Making the case at the Planning Application Stage:** When planning applications are submitted, local councillors are strongly advised to recommend 106 priorities in the form of **specific projects in response to the formal consultation** on the application. This allows planning officers to then directly raise the suggested projects with the applicants. If requested Planning officers will be happy to meet with local councillors on request to help explore potential candidate projects
- **Site Infrastructure Requirements as part of the Local Plan:** A further opportunity to develop a project and infrastructure programme is through considering required

Infrastructure projects to support site allocations in the new local Plan. When this allocates sites for development, requirements **for associated projects to be linked to the development** sites in the form a comprehensive infrastructure programme is required. As well as helping to make the planning case by mitigating localised development impacts, such dialogue can also help inform the council's capital and revenue programme/project development processes.

- **What about Viability?** Unfortunately developers can make a case that there is not sufficient profit in developing a site to allow for some or all of the possible 106 policy requirements to be met. If they submit a valid and robust Viability Appraisal, then Government Policy requires Planning authorities to consider such information in a positive way and in the light of a general presumption in favour of development
- **What about sites the Council owns?** In disposing of sites the council as landowner can specify that some or all of the s106 obligations have to be met as a condition of sale, as opposed to being a matter for negotiation at the planning application stage. This generally has the effect of reducing the land receipt received by the council, but does have the benefit that delivery of the funding for the infrastructure is captured, and the developer cannot easily argue a Viability issue to avoid the obligations. This approach has worked well at recent disposals/approvals such as St Mary's Allotments, Blackbird Road and Franklyn Fields all of which have secured substantial sums for affordable housing, education, and open space.
- **What about Community Infrastructure Levy (CIL)?** This is a simpler, tariff based system the Government prefers to s106. The Council establishes a citywide list of required infrastructure and a set sum is charged to eligible developments without the current individual negotiations on all applications. The Government is due shortly to publish significant changes to the CIL regulations and the City Council will be reviewing this option as part of the new Local Plan process.
- **How can I find more information?**
 - LCC Core Strategy policies are set out [here](#)
 - CIL Information is set out [here](#)
 - Government Policy is set out [here](#)
 - Contact grant.butterworth@leicester.gov.uk

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- 1) Community Sports facilities on derelict land owned by the Council at the bottom of Littlewood Close.
 - 2) Community Kitchen at E2 Home Farm Close
 - 3) Parking and access improvements to Beaumont Lodge Community Centre
 - 4) Footpath and pedestrian access from new Ashton Green housing to Beaumont Lodge shopping etc area.
 - 5) Adventure Playground on Council owned land in the Beaumont Leys area.
- NB this would require revenue funding but we can only start working on that when we know the capital costs will be covered by 106. Need to decide on a location but there are several possibilities.

Project	Planning response on eligibility/compliance with current policies	Executive approvals: Service area to consider in respect of applicable operational issues and project programme development processes	Other Recommendations/Actions
Community Sports facilities on derelict land owned by the Council at the bottom of Littlewood Close.	This could be an eligible project which could be considered as part of the open space and sports policy requirement	Sports Services to consider inclusion in relevant project pool/programme and if agreed as a priority, put forward proposal in their consultation response on any eligible local applications which may be brought forward	Property Department to review the development options for the site identified. Planning Department to consider possible allocation in Local Plan
Community Kitchen at E2 Home Farm Close	It is difficult to see how this could be evidenced as infrastructure required to mitigate development impacts in the context of current policies	To be considered via normal training centre service/capital programme development processes	
Parking and access improvements to Beaumont Lodge Community Centre	It is difficult to see how this could be evidenced as infrastructure required to mitigate development impacts in the context of current policies	To be considered via normal community centre service/capital programme development processes	
Footpath and pedestrian access from new Ashton Green housing to Beaumont Lodge shopping etc area.	This could be an eligible project which could be considered as part of transport policy requirement but an outline planning permission has already been granted.	Regeneration service to consider most appropriate development and delivery route with property, planning and Highways	Might be better pursued as part of the wider development and master-planning process for future development phases of Ashton Green and transport infrastructure development work
Adventure Playground on Council owned land in the Beaumont Leys area. NB this would require revenue funding but we	This could be an eligible project which could be considered as part of the open space and sports policy requirement	Parks/youth Services to consider inclusion in relevant project pool/programme and if agreed as a priority, put forward proposal in their consultation response on any eligible local	Parks/Planning to consider as part of possible Local Plan site allocation/mitigation proposals

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applications which may be brought forward