

Advice Note – S106s and Member involvement

General S106 information

S106 Agreements (S106s) are legal agreements attached to planning permissions. They are entered into when a planning application requires mitigation measures and/ or community benefits to be secured where it is not appropriate to use planning conditions. They are entered into by the landowner and the Council.

The type and scale of contributions that can be secured must be consistent with Government Guidance and Local Plan policy. Circular 05/05 requires that all contributions must be:

- related to planning;
- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development;
- fairly and reasonably related in scale and kind to the proposed development; and
- reasonable in all other respects.

The City of Derby Local Plan Review contains plan-wide and site specific policies related to planning obligations. These must be taken into account, as there must be a local plan policy basis for any contribution that we seek.

Our Planning Obligations Supplementary Planning Document gives more details guidance on the types and level of contributions the council normally seek. This can be viewed at the link below.

<http://www.derby.gov.uk/Environment/Planning/LandUsePlanning/Planning+Obligations+Supplementary+Planning+Document.htm>

How Members can be involved in S106 Agreements

At application stage

The weekly list gives details of all planning applications that have been registered in the previous 7 days.

At the bottom of the list is a separate section that lists all applications registered in the last 7 days that are to have a S106 Agreement attached to them. Members can therefore identify when an application they are interested in will have a S106.

The draft Heads of Terms for each S106 agreement will have been negotiated before the application is registered. These Heads of Terms include details on the type and amounts of each contribution being required. They are only in

draft form, therefore there is opportunity to alter or add requirements at this stage. The draft Heads of Terms can be seen on the e-planning pages of our website, where all details of applications can be viewed. The link to the relevant page is below. Members will need to search for the application they are interested in and the Heads of Terms will be one of the documents that can be viewed.

<http://eplanning.derby.gov.uk/acolnet/planningpages02/acolnetcgi.gov>

If Members have any comments or queries about any of the Heads of Terms, then they should contact Andy Moger, Trainee Planning Officer, Implementation Team on 01332 256025 or andrew.moger@derby.gov.uk

Soon after the application has been registered is the best time to influence what is included in a S106.

When applications go to Committee

Members also have an opportunity to see what is being secured through a S106 when the application goes to Committee.

Committee Reports are published 5 days before Committee and include details of all S106 contributions being sought.

After S106 is completed – how money is spent

A quarterly monitoring spreadsheet is sent round to all Members that shows details of all S106 contributions which have been received by the Council and are available to spend. The spreadsheet includes information on how much the contribution is for, how it can be spent and an Officer recommendation for how the money is intended to be spent. It is circulated to Members in March, June, September and December each year.

This is an opportunity for Members to comment on and influence how Officers are proposing to spend S106 money. If Members have concerns about proposals or alternative ideas of how to spend contributions then changes can be made at this stage.

Officer recommendations are based on:

- The parameters in each individual S106 that the Council must work within
- Council priorities at the time the money is available
- Opportunities to increase the value of contributions through pooling and match funding
- Links to the Capital Programme

Comments on the spreadsheet should be made either to the Lead Officer in the relevant Department that is named in the spreadsheet, or to Andy Moger.

Comments must be made within 2 weeks of the spreadsheet being received.