



South Somerset District Council

SECTION 106 (S106)



Q1: WHAT IS A SECTION 106 AGREEMENT or UNILATERAL UNDERTAKING?

Section 106 (S106) Agreements or Unilateral Undertakings (UU's) are legally binding agreements between Local Authorities and a developer and/or landowner, made under Section 106 of the Town and Country Planning Act 1990.

These agreements are linked to planning permissions and can also be known as planning obligations.

Q2: WHO IS RESPONSIBLE FOR MANAGING SECTION 106 FUNDS?

Council planning policies and plans set the framework for what is required from planning obligations. Council officers negotiate planning obligations with the developer, and the council's legal department draws up the Section 106 agreement to secure these contributions. The agreements are made under Section 106 of the Town & Country Planning Act 1990.

The District Council negotiates Section 106 Agreements with the developer to address issues relating to public open space, public realm and affordable housing. The District Council is then responsible for ensuring payments are made and monies spent within the timescales specified in the S106 Agreement and for allocating funds to projects in the community.

Q3: HOW DO THE FUNDS RELATE TO THE DEVELOPMENT?

Contributions can only be sought against a future need that would arise as a result of a particular development.

For example, a new residential development can place extra pressure on the social, physical and economic infrastructure which already exists in a certain area. A planning obligation will aim to balance the pressure created by the new development with improvements to the surrounding area ensuring that where possible the development would make a positive contribution to the local area and community.

Every Section 106 Agreement will be different and reflect the development that it relates to.

Q4: WHAT IS CIL?

The Community Infrastructure Levy (CIL) is a charge that local authorities can set on new development in order to raise funds to help fund the infrastructure, facilities and services which are needed to support new homes and businesses in the areas. South Somerset District Council implemented the South Somerset Community Infrastructure Levy (CIL) charging regime on April 1st 2017.

The key points from the SSSDC charging schedule are:

- Residential development is charged at £40 per sq. m
- Commercial/industrial development is not sufficiently profitable to make a CIL contribution
- Out of town large retail is charged at £100 per sq. m
- The urban extensions in Yeovil and the eastern growth area in Chard should be exempt from CIL as they will be making an equivalent contribution through the Section 106 requirements
- Affordable housing and self-build are normally exempt from the charge

Parish councils will receive 15% of all CIL received within their administrative boundary. This rises to 25% if the town or parish has a 'made' Neighbourhood Plan.

Q5: CAN WE SEEK S106 OBLIGATIONS IN ADDITION TO CIL?

Yes, but we **cannot** seek S106 obligations for infrastructure that we have said we will fund through the CIL charging regime (as set out on the Council's Regulation 123 list).

Q6: WHO CAN APPLY FOR S106 FUNDS?

Applications are normally invited from the following not-for-profit organisations whose activities benefit residents of the district:

- Local Authority (District, Town, Parish Council, County Council)
- Educational Establishment
- Company Limited by Guarantee with Charitable Status
- Registered Charitable Organisations
- Unincorporated not for profit organisations

Q7: WHAT IF THE TOWN OR PARISH COUNCIL OBJECTS TO THE DEVELOPMENT?

Town and Parish Councils should take an active role in the identification of the strategic priorities and set out their wishes in respect of the allocation of any potential Section 106 contributions. Submitting this information will in no way prejudice any objections raised within the consultation response.

Q8: WHAT TYPES OF PROJECTS CAN SECTION 106 MONEY SUPPORT?

Section 106 funding is available for capital projects only (not to cover revenue expenditure) but may include project management costs. Section 106 funds may only be spent on new facilities or improvements to facilities where the new development has, at least in part, contributed to the need for that facility or will have an impact on the existing facilities.

Examples of eligible projects include:

- Installation of a new sprung floor
- Installation of an artificial turf pitch
- Upgrading of play area with new equipment
- Purchase of land for additional pitches
- Extension of community hall
- Informal youth facilities – ball courts, skate parks, youth shelters etc.
- Sports pavilions

Q9: WHAT CANNOT BE SUPPORTED BY SECTION 106 FUNDS?

Costs related to revenue expenditure or costs, which primarily relate to the maintenance of existing facilities such as minor repairs, replacement or redecoration.

Retrospective funding is not permitted.

Q10: HOW MUCH FUNDING IS AVAILABLE?

The amount of the contribution sought by the District Council is dependent on the size and scale of the development i.e. number of bedrooms and number of units. The Council is normally expected to have an up to date **evidence base** and in some cases adopted standards of provision (setting out for example how much open space per person that we will ask for) to support requests for planning obligations.

It is essential that any requests meet the following three tests set out within the Community Infrastructure Levy Regulations 2010 (as amended):

- they are necessary
- they are directly related to the development
- they are fairly and reasonably related in scale and kind to the development

The amount of funding available for individual catchment areas will depend on the sum of the contributions received by the district council through the planning obligations process. There is no upper limit to what funding can be applied for, although this will obviously be limited to how much is available. District Council offices can make the decision to offer part of the funding requested as opposed to the whole amount.

Q11: IS MATCH FUNDING A REQUIREMENT?

Funds may be awarded for the entire project, but applicants are positively encouraged to seek funding from other grant bodies and community sources, as well as their own sources. Additional contributions demonstrate wider partnership support and commitment to the scheme and increase overall value for money. District Council Community Grant Applications can also be applied for to help support a project. Please see www.southsomerset.gov.uk/communities for further help and support regarding match funding.

Q12: WHEN IS THE MONEY AVAILABLE?

A planning application has to be implemented for planning obligations to be triggered. The Section 106 Agreement will specify the trigger for payment e.g. occupation of first dwelling or occupation of the 20th dwelling. If a development does not go ahead, the Section 106 Agreement will not be implemented.

Applications cannot be formally considered before money is received although informal discussions, planning and consultation can be progressed.

Q13: IS THERE A DEADLINE FOR APPLICATIONS?

The district council does not set specific deadlines for the submission of applications for S106 funding and applications. Most Section 106 Agreements will include time limits for financial contributions from developers to be spent, typically five or ten years depending on the scale of the development to which the Section 106 Agreement relates, after which the district council will have to return any underspend to the developer.

Q14: HOW LONG DOES THE PROCESS TAKE?

The district council aims to release funds approximately 6 months from receipt of the application. However, issues can arise that are entirely dependent on the applicant to resolve and that may delay this process, for example the requirement of a planning consent or evidence that the applicant has an interest in the land to which their project relates. Therefore, it is not possible to precise about timescales in every case.

Q15: CAN APPLICATIONS BE AGREED 'IN PRINCIPLE'?

Applications agreed 'in principle' and awaiting confirmation of conditions such as planning permissions, match funding etc. will lapse after 6 months and will need to be resubmitted. However, a formal offer will not be sent until all aspects of the project are in place.

Q16: WHAT ARE THE FUNDING ARRANGEMENTS?

Once funding has been approved, you will be required to enter into an agreement to include any additional conditions that the council considers appropriate. An offer letter will be sent to the applicant and you will need to complete and return the acceptance of award within this offer. Payment will be made upon receipt of a completed claim form and the invoices for expenditure related to the project.

Applicants will be required to commence the works on or before the end of a period as specified in the grant agreement.

Q17: WHO SHOULD WE BE SPEAKING TO ABOUT OUR PROJECT?

Community groups and organisations are encouraged to work with Parish and Town Councils in identifying projects that are of benefit to the local community. We would expect all applications to evidence support from the relevant Town or Parish Council where the applicant is not the Town or Parish Council. It is also important that District Council ward councillors are closely involved in this process. Visit www.southsomerset.gov.uk for contact details of your ward councillors.

Q18: WHERE CAN WE GET SUPPORT?

The District Council Locality team can provide support and early engagement with the team is encouraged. They can also provide guidance on completion of the form and advice whether the application is likely to meet relevant funding criteria. Please contact the team at Locality@southsouthsomerset.gov.uk

Q19: HOW DO WE EVIDENCE LOCAL SUPPORT?

It is important to demonstrate that your project has the support of the local community. There are many different approaches to successful community consultation and engagement depending on the specific aims and objectives of the project. Here are just a few examples of methods for consulting and engaging with your community:

- Leaflets, flyers, posters
- Exhibitions / interactive displays (e.g. in village hall or at local event)Website
- Social media e.g. Facebook
- Newsletters, email updates
- Surveys or questionnaires by post / door to door / online
- Competitions e.g. for project ideas / designs
- Public meetings

Q20: HOW ARE APPLICATIONS ASSESSED?

The application form has been designed to capture all the information required to enable a fair and considered assessment. Having established that the applicant meets the relevant eligibility criteria, the application will be assessed against the following broader determinants:

- evidence of match funding
- value for money
- evidence of need
- evidence of increase and/or diversification of usage
- evidence of community consultation and local support
- financial viability and sustainability
- project management capacity
- alignment to local plans & strategies (parish/district/ county) eg. Parish Plan, Neighbourhood Plan, SSDC Council and Area Chapter Plans

Q21: WHAT ARE THE MONITORING REQUIREMENTS?

Projects will be expected to carry out monitoring and evaluation. Applicants will be required to complete and submit an evaluation report 12 months from the date the project is open to the public. You will need to:

- describe the significant achievements of the project
- share the lessons learnt
- offer feedback on the grants process

Q21: WHAT IF THE APPLICATION IS NOT SUCCESSFUL?

The panel's decision is final and there is no right to appeal. Applicants have the right to submit a complaint through the district council's complaints procedure if they feel that the council has not followed the correct procedure.

Q22: WHAT SHOULD WE DO IN THE EVENT OF AN UNDERSPEND OR OVERSPEND?

The applicant is responsible for any project overspend above the agreed limits and any other expenditure in relation to the project. Any underspend will need to be returned to the District Council.