


# South Derbyshire District Council Section 106 Frequently Asked Questions



## Q1: What is a Section 106 Agreement?

Section 106 Agreements are a mechanism under the Town and Country Planning Act 1990 (as amended) to make a development proposal acceptable in planning terms, that would not otherwise be acceptable.

## Q2: Who is responsible for managing Section 106 funds?

South Derbyshire District Council planning policies set out what is to be required from planning obligations. The Council planning officers negotiate the Section 106 agreement with the developer in order to secure the contributions.

The Council is responsible for ensuring payments are made and the monies received are spent within the timescales specified within the Section 106 Agreement. This includes allocating funds to projects within the community. The Section 106 team can be contacted by emailing [s106@southderbyshire.gov.uk](mailto:s106@southderbyshire.gov.uk)

## Q3: How do the funds relate to the development?

Section 106 funds can only be sought against a future need that is arising as a direct result of a proposed development. The contributions are used as mitigation and are intended to make the development acceptable in planning terms, where it would otherwise be unacceptable.

Mitigation is typically secured through conditions attached to the planning permission and/or through legal agreements

with the developers (known as planning obligations) in order to secure contributions towards, or the provision of, the necessary infrastructure.

Please refer to the South Derbyshire Guide for Developers<sup>1</sup> for information on what Planning Obligations are typically expected.

The three tests that must be met as set out in The Community Infrastructure Levy Regulations 2010 (as amended)<sup>2</sup> are that the obligations are:

- 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.

## Q4: Who can apply for S106 Funds?

The following not-for-profit organisations can apply for Section 106 funding, if their activities benefit the residents of South Derbyshire:

- Local Authority
- Parish Councils or constituted Parish meeting
- Registered Charities
- Any constituted community / voluntary group based within South Derbyshire, specifically, within the Parish / Ward with which the Section 106 money is associated.

<sup>1</sup> [Section 106 agreements | South Derbyshire District Council](#)

<sup>2</sup> [The Community Infrastructure Levy Regulations 2010 \(legislation.gov.uk\)](#)



## Q5: What type of projects can Section 106 money support?

Section 106 money is available for CAPITAL projects only, which may include set up costs (e.g. design work).

Funding may be used towards the provision, improvement, enhancement, or adaption of new or existing facilities.

Each Section 106 agreement is negotiated to provide funding associated with one, two or all of the following three areas:

1. Built Facilities
2. Outdoor Sports
3. Off Site Open Space

Examples of eligible projects include:

- Enhancements to play areas with new equipment.
- Refurbishment of a community hall
- Improvements to sports pitches
- New car parking area if directly related to sport / recreation facility.
- Purchase of land for additional pitches
- Youth facilities e.g. skate park
- Provision of allotments

## Q6: What cannot be supported by Section 106 funding?

Funding towards on-going running costs is not available. Examples of projects that we cannot support are:

- General running costs such as utility bills and maintenance.
- Items or projects which only benefit an individual.
- Activities promoting political or religious beliefs.

## Q7: How much funding is available?

The amount of funding available will depend on what is received by the Council (sometimes referred to as the charging authority) through the planning obligations process. The upper limit of what can be applied for is what is available from the specific Section 106 agreements.

## Q8: Is match funding a requirement for Section 106 funding?

Section 106 funding may be awarded for the whole of a project or part of a project. As part of the application form, applicants are asked if they have any partnership funding in place to support the project and ensure its viability.

## Q9: When is the money available?

The Section 106 agreement will specify the trigger point for the collection of the payments e.g. 50% occupation of the development. If the development does not go ahead, the Section 106 agreement will not be implemented. Applications will be welcome for the funding once the money has been received by the Council; at this point those who are expected to claim funding will be informed. Prior to any funding being received informal discussions, planning and consultation can be progressed, however, applications for releasing Section 106 monies cannot be formally considered until the monies have been received.



## Q10: Is there a deadline for applications?

Most Section 106 agreements include a time limit for the spending of the financial contributions from the date of when they have been received by the Council. Typically, this is either five or ten years depending on the scale of the development; after this period the Council is required to return any unspent monies to the developer.

## Q11: Can an application be agreed ‘in principle’?

Applications that are agreed ‘in principle’ and are awaiting confirmation of match funding, planning permission etc. will lapse after six months and will need to be resubmitted.

## Q12: What are the funding arrangements?

In order to be granted funding you will need to successfully complete the ‘Application of Monies’ form. The form and accompanying guidance notes are available on the website [here](#).

## Q13: Who should we be speaking to about our project?

Local organisations and community groups are encouraged to work with Parish Councils and the District Council in identifying a specific project that is of benefit to the local community. If the applicant for the funding is not the Parish Council, we expect support from the Parish Council to be evidenced as part of the application form. Please contact

the [planning policy team](#) to talk about your ideas for your project. Support is also available from Culture and Community Services.

## Q14: How do we evidence local support?

It is key to be able to demonstrate that your proposed project has the support of the local community. There are many different approaches to having a successful community consultation. Examples for engaging with the community include:

- Social media
- Surveys or questionnaires
- Leaflets / posters
- Public meetings

Further ideas can be found [here](#).

## Q18: How are applications assessed?

The application form has been designed to ensure that all appropriate information is gathered to facilitate a fair assessment. Once it is established that the applicant meets the initial eligibility criteria set out within the Section 106 agreement, the application will be assessed against the following broader elements:

- Evidence of need
- Value for money
- Evidence of community consultation and local support (see Q. 14)
- Evidence of diversification and/or increase in usage



## Q19: What are the monitoring requirements?

We ask that evidence is forwarded to South Derbyshire District Council upon completion of the project; information must be provided on:

- Which groups of people and how many, benefited from the project
- How the success will be celebrated
- If there will be any publicity associated with the project.

