



Section 106 (S106) Funds and Community Infrastructure Levy (CIL) Explained

Section 106 (S106)

What are Section 106 (s106) agreements?

A Section 106 Agreement is a type of planning obligation authorised by Section 106 of the Town and Country Planning Act 1990. A Section 106 Agreement is a legal agreement in the form of a deed between the Local Planning Authority (LPA) and the owner of land, who is normally the applicant/developer.

**Swindon Borough Council are the Local Planning Authority for Wroughton Parish Council.*

What are S106 agreements (planning obligations) used for?

The planning obligations / agreements are usually completed following a granted planning permission (normally for major developments) to mitigate the impact of new developments.

How is a S106 Negotiated?

The negotiation of a S106 legal agreement is led by an allocated Planning Officer (Swindon Borough Council) in discussion with the Developer and other colleagues both within and outside the Council at that time.

When are S106 monies paid?

S106 monies are usually paid in instalments at key stages during the construction of a development. The stages at which payments are due are known as 'Trigger Points'.

For example, S106 contributions could be payable by instalments with 50% paid upon commencement of development and the remaining 50% paid upon completion of a development.

As developers have three years to commence a development once planning permission is granted, it can therefore take a number of years before S106 contributions are received by the Council from the time permission was originally granted.

Swindon Borough Council as the Local Planning Authority, would receive its S106 funds first and then a proportion would be paid over to Wroughton Parish Council once the proposed development has begun.

How can S106 funds be spent / allocated?

S106 payments relate directly to the development with which they are associated (paid from), and can only be spent as specified in the S106 agreement which would have been agreed by all relevant parties at the time. The funds arrive to the parish council with limited and restricted use.

Section 106 agreements should not be used to resolve existing problems elsewhere unless specified in the S106 agreement. The important fact is that the S106 contribution (payment) must meet the needs of the development proposed, and not be spent on making good a pre-existing deficiency.

For example, a S106 contribution may be agreed to fund a new playground if a playground is made necessary by the development.

Can members of the public view copies of the S106 agreement?

Members of the public can view all existing S106 agreements via the relevant planning reference number entry via the Swindon Borough Council planning portal:

https://www.swindon.gov.uk/info/20030/planning_and_regeneration/380/view_or_comment_on_a_planning_application

Community Infrastructure Levy (CIL)

What is CIL?

A Community Infrastructure Levy (CIL) is a new planning charge introduced by the government via the Planning Act 2008. It provides a means of ensuring that a new development contributes to the cost of the infrastructure that the development will rely on, such as schools and roads.

Most new developments creating additional floor space of 100 square metres or more, or creates a new dwelling, is potentially liable for the levy (CIL contribution).

The money received should then be used to support the development, the council and the local community.

CIL neighbourhood proportion and parish councils

The Council (Local Planning Authority) has a regulatory requirement to ensure that a proportion of the CIL payment it receives, is protected for investment by the local community. This proportion is commonly known as the CIL Neighbourhood Proportion (NP). Similar to S106 funding Swindon Borough Council (LPA) will transfer the parish councils proportion once received.

How can CIL be spent and are there restrictions?

CIL is considered fairer, faster and more certain than the other S106 planning obligations / contributions.

S106 funds are negotiated on a case-by-case basis and CIL is seemed more universal and comes with less restrictions.

Charging CIL allows to spread the cost of funding infrastructure over more developers and provides certainty as to how much developers will have to pay, it is simpler and more transparent.

Useful Links:

<https://www.gov.uk/guidance/planning-obligations>

<https://www.local.gov.uk/pas/topics/delivery/delivery-archive/developer-contributions-cil-s106-archived-pages/archived-s106>

https://www.swindon.gov.uk/info/20112/community_infrastructure_levy_cil/619/how_cil_operates

<https://www.gov.uk/guidance/community-infrastructure-levy>

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