



PLANNING OBLIGATIONS

including Section 106 Agreements

So what is a planning obligation?

- A Planning Obligation is a legal undertaking using Section 106 of the Town & Country Planning Act 1990
- It is a legal agreement between the applicant and/or developer and, the Local Planning Authority (LPA)
- It covers those non-planning aspects of the development proposal that could not be covered through a condition on the planning permission.
- It is used in order to off-set the negative aspects of development on a community



What requirements can be implemented with a Planning Obligation?

- Restriction on the development or use of the land in any specified way;
- Require specified operations/activities to be carried out, in, on, under or over land;
- Require land to be used in a specified way;
- Require a sum or sums of money to be paid to the Authority on a specified date or dates periodically



Government Guidance – Circular 05/2005 “Planning Obligations”

A Planning Obligation must be:

- Relevant 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;
- Reasonable in all other aspects

(ODPM Circular 05/2005: Planning Obligations)



Community Infrastructure Regulations 2010

Building on Circular 05/05 the Community Infrastructure Levy (CIL) regulations 2010 state:

A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development



Examples of Planning Obligations



Specific Priorities

- Affordable housing
- Education
- Highways and public transport
- Travel plan

Community Priorities negotiated separately to the above

- Social and community facilities
- Street scene improvements
- Public open space and recreation/play areas
- Biodiversity



West Somerset Councils policy and procedure for allocation of social and community payments



The Council will require new housing and major commercial and industrial development to make provision for social, recreation, transport, education, community and health facilities, the need for which arise from the development and that are commensurate with the scale and nature of proposals.

This could be by way of direct provision on site and/or by financial contribution to be made for the provision of facilities elsewhere.



How are Planning Obligations raised?

Planning Obligation Thresholds for Specific Priorities:

Residential development in:

- Minehead 8 - or more dwellings
- Watchet and Williton - 5 or more dwellings
- Elsewhere in the district – 2 or more dwellings

Note: Affordable housing [AH] provision on qualifying sites will be determined in the ratio of 35 AH:65 OM (open market) on a like-for-like basis unless the Local Authority identifies and negotiates alternative size, type and/or tenure requirements through a local needs survey.



How are Planning Obligations raised?



Planning Obligation Thresholds for Community Priorities:

Contributions for recreation, leisure, open space, street scene and biodiversity:

- Minehead: £5,000 - £10,000 per dwelling
- Watchet/Williton: £2,000 - £5,000 per dwelling
- Elsewhere: £2,000 - £5,000 per dwelling

(See: West Somerset Council Planning Obligations Supplementary Planning Document

<http://www.westsomersetonline.gov.uk/getattachment/Planning---Building/Planning-Policy/Local-Plan/Planning-Obligations-Supplementary-Planning-Docume/Planning-Obligations-SPD-Main-Document.pdf.aspx>)



How are Planning Obligation contributions allocated?



Two types of Planning Obligations:

- 1 Where a contribution is identified for a specific project or would be spent by a particular body (e.g. transport – where Somerset Highways would spend the contribution on a particular road improvement, or a contribution towards West Somerset Community College which would be given to the college to spend on a specific project)
- 2 Where a contribution is not necessarily specific to a particular project but needs to be spent on a particular subject matter (e.g. leisure and recreation – where a developer will be required to contribute a sum of money for the provision of sports pitches (as an example) based on the number of people which will move into the area but where no particular project is identified at this stage)

Note: Town/Parish councils and community groups can apply for number 2 above.



Who can utilise the Planning Obligation funds?

Planning Obligation for Community Priorities:

The following can apply to utilise Planning Obligation funds for Community Priorities:

- Parish/Town Councils
- Local Voluntary and Community Groups
- West Somerset Council



How does the process work?

Expressions of interest and applications are submitted to the Climate Change & Community Liaison Manager

- Expressions of interest and applications are presented to a Planning Obligations Group (POG);
- Recommendations for potential schemes will then go forward to Cabinet who will make the final decision on both expressions of interest and applications.
- Successful expressions of interest applicants will be invited to submit their full application. Those who are successful with a full application will be asked to proceed with their project and submit their claim for funding.



Where can I find more information?

Contact West Somerset Council's, Climate Change and Community Liaison Manager:

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