



WEST OXFORDSHIRE
DISTRICT COUNCIL

Section 106 Information Leaflet

Guidance for Town and Parish Councils

S106 Team

The S106 team at WODC monitors trigger points in the legal agreements to ensure financial contributions are paid in time. The team also processes funding requests from Town and Parish councils (see overleaf) and can provide an overview of funds secured and collected in any area. They can be contacted by emailing S106@westoxon.gov.uk.

Please note that any request to access S106 funding held by WODC will be brought to senior management for consideration. The S106 team does not make any funding decisions.

Section 106 (S106) Agreements are legal agreements entered into by developers/landowners to mitigate the impact of their development.

Often these agreements address items such as the provision of new affordable homes, sports and play facilities, education, transport, health and community wellbeing and biodiversity net gain.

Local Authorities, Parish and Town Councils, Police, NHS and other public bodies are able to put forward requests for financial and non-financial mitigation during the planning application consultation phase.

These requests are considered as a whole when the planning application is being decided. This may mean that

not all requests may be accepted (for example due to viability issues). Moreover, S106 agreements are focused on site-specific mitigation and any obligation on the developer must meet three legal tests (see information box below).

Financial contributions will often be paid by instalments based on trigger points such as commencement or occupation of a certain number of dwellings. This means that it can be several years between the S106 agreement being signed and the contributions being received in full by WODC.

Be proactive!

At the application stage:

State your requirements in your consultation response, even if you object to the development. Contributions will not be secured if you haven't requested them and listing your requirements would not weaken an objection. If the development is permitted by WODC or at appeal, you will have missed the chance to request any contributions.

At the project stage:

We encourage you to engage with the relevant WODC officer (Leisure, Community Wellbeing...) at the earliest stages of your project to ensure it fits in with WODC's strategies. The S106 team can connect you with the right officers within those teams.

Can anything be requested?

All developer contributions have to meet three legal requirements (also called 'tests') as set out below. To pass the tests, there has to be evidence there is a need which is related to the development. The tests ensure that WODC cannot block development by asking for unreasonable requirements and stop developers from 'buying' a planning permission by paying for things that are not related to their development. For example:

Test	Example
1. Necessary to make the development acceptable in planning terms	We could secure a community contribution for a village hall which is already operating at full capacity and the proposed development will increase the demand further. But not if there is already enough capacity at the hall to take on the new demand.
2. Directly related to the development	We could secure additional equipment for a play area next to the proposed development but not for a play area so far away that it is unlikely to be used by the residents of the new development.
3. Fairly and reasonably related in scale and kind to the development	We could secure education contributions to meet the school needs for children from the new development. A completely new school could not be requested unless the development is of such a scale that a school is required to meet the need coming from the development.

What can/can't S106 funds be used for?

- Funds must be used to mitigate the impacts of the development they were collected from and not on unrelated projects even if they are needed more in the town or parish. Funds must therefore be spent on what they were secured for and in line with the wording of the S106 agreement.
- Funds have to be spent within the timeframe set out in the S106 agreement. The deadline is typically 10 years from receipt, but this may vary between agreements. If the funds are not spent in time, the developer is able to request that the funds are returned to them.
- WODC cannot accept requests for feasibility or other preliminary studies.
- Funds should be for capital projects and unless otherwise specified in the agreement are **not for on-going running costs, maintenance or minor repair work**. S106 funds should not be used as an alternative to precepts.
- WODC will not accept requests to access S106 funding retrospectively for projects already undertaken.

Other FAQs

This leaflet covers the queries most often received by the S106 team; some additional common queries are:

- **What are outline / reserved matters applications?** This is a two-step application process where the principle of the development is considered at the outline stage with certain elements called 'reserved matters' (such as design, detailed layout...) determined at a later stage. The S106 agreement will be negotiated at the outline stage. It is too late to submit a S106 request when the reserved matters are being considered.
- **How do we request S106 funds when a planning application is received?** Please see the flowchart on the next page. You can ask the planning case officer for help when wording your request so it is more likely to be agreed to.
- **Will requests from previous schemes be taken into account?** No, if a developer submits a new planning application on the same site for a different scheme, you will need to submit a new consultation response.
- **What is the process for accessing S106 funds?** You will need to complete a [S106 Request Form](#). Please see the flowchart on the next page which sets out how your request will be processed/determined.
- **Why is the amount received different from the figure in the S106 agreement?** Most agreements will include indexation to ensure inflation is included when the contribution is paid.
- **Does every planning permission have a S106 agreement?** Generally, S106 agreements are only used in relation to larger development proposals (typically 10 or more homes) because of their greater impact.
- **Where can I see a copy of the signed S106 agreement?** A PDF copy of the final agreement will be uploaded onto [WODC's Planning Register](#); you can search for this using the planning application reference.

On-site facilities

S106 obligations may relate to on-site facilities such as Play Areas, Allotments, Public Open Spaces, Village Halls... which may be offered for transfer to the Parish Council/Town Council for a nominal fee and include a financial contribution towards the ongoing maintenance and improvements of that facility.

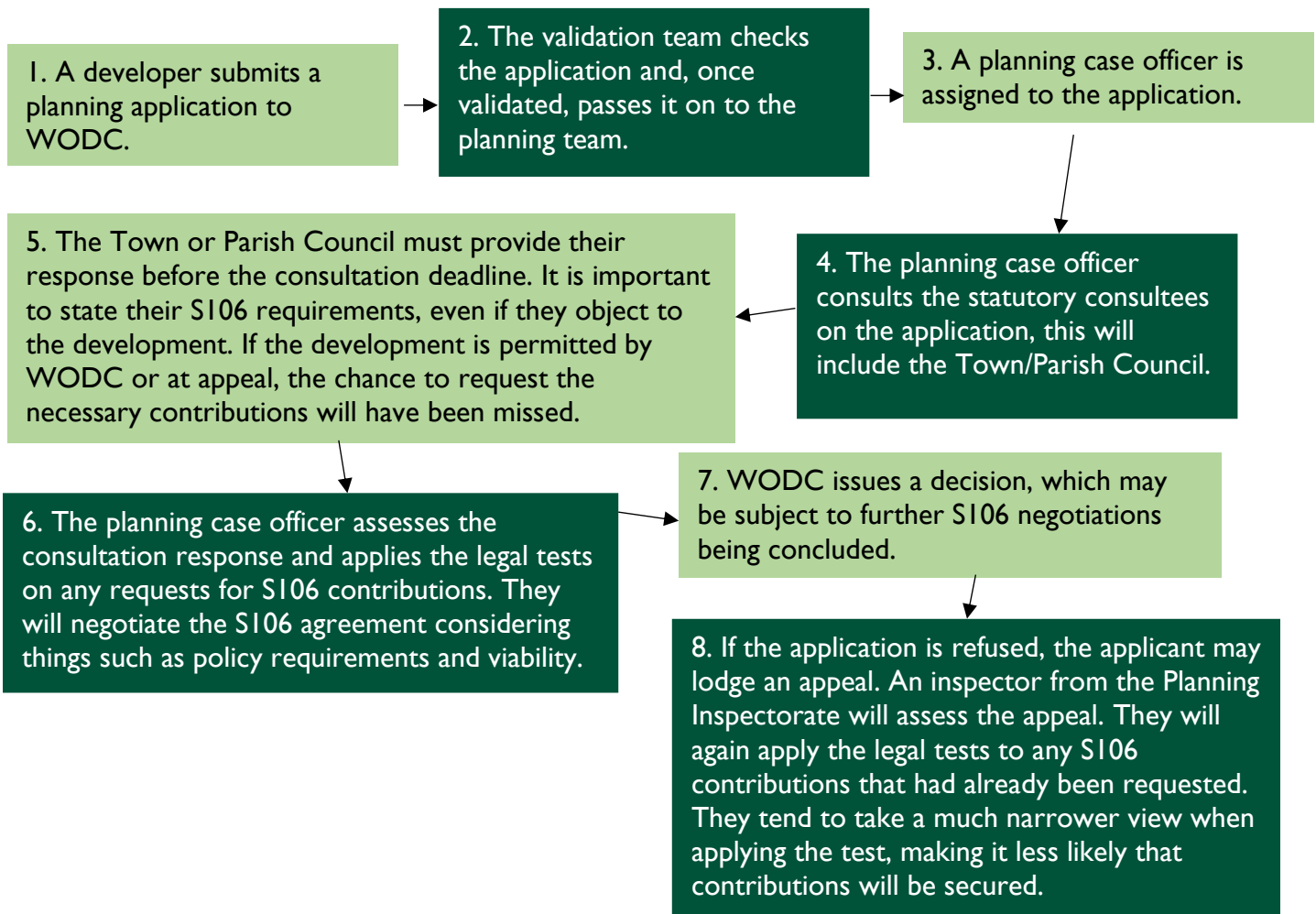
To secure such obligations and the related maintenance contribution you will need to request them in your consultation response.

If an offer of transfer is not accepted, then the Developer will transfer the facility to a Management Company who will be responsible for the ongoing maintenance of that facility.

Further information and useful links

- [West Oxfordshire District Council's Developer Contributions Guide](#)
- [Westhive empowers the community to create a thriving, inclusive and better-connected place](#)
- [West Oxfordshire District Council's Planning Register \(contains copies of S106 agreements\)](#)
- [West Oxfordshire District Council's Infrastructure Funding Statements](#)
- [S106 Request Form for Town and Parish Councils to access funds](#)

Flowchart for submitting a request to secure S106 contributions from a development:



Flowchart for submitting a request to access collected S106 funds:

