

RELEASE OF SECTION 106 CONTRIBUTIONS FOR EXTERNAL PROJECTS

Guidance Note for Parish/Town Councils and other Local Groups

1. Introduction

- 1.1 In February 2009 the Council adopted a Supplementary Planning Document (SPD) on Infrastructure and Developer Contributions. The SPD provides guidance on the policies in the Test Valley Borough Local Plan (2006) relating to developer contributions towards community benefits and infrastructure. The guidance is intended to bring together detailed practical information on how contributions will be negotiated. It supports the Local Plan policies by explaining in more detail how the policies can be applied successfully and quickly and details the type of contributions the Council will be seeking.

A copy of the SPD is available on the Council's website www.testvalley.gov.uk or by request from the Planning Policy Team (see contact details overleaf).

- 1.2 Local Planning Authorities can seek contributions to mitigate a development's impact and provide benefits to the area affected by the development. These benefits, whether works or payments, are secured under a Section 106 legal agreement.
- 1.3 S106 contributions can only be sought from developers where the proposed development will have a direct impact on the local area. Government policy, as set out in Circular 05/05, states that contributions should be required only where they are necessary and appropriate and where all the following tests (known as the Necessity Test) are met¹:
- Necessary to make the proposed development acceptable in planning terms;
 - Directly related to the proposed development; and
 - Fairly and reasonable related in scale and kind to the proposed development.
- 1.4 It is acknowledged that Parish/Town Councils may draw up, or already have drawn up, wish lists of community facilities or infrastructure improvements for their areas. Whilst it is appropriate to draw upon such a wish list when commenting on an individual planning application, the Council is unable to insist on a particular developer contribution unless it meets the tests in paragraph 1.3 above.
- 1.5 In many cases, developer contributions will relate to specific community benefits or infrastructure works, such as highway improvements, which will be carried out by either Test Valley Borough Council or Hampshire County Council. In these cases, the contributions will be transferred to the appropriate Council account.
- 1.6 In those cases where contributions are available to be considered for release for external projects, the Head of the Planning and Building Service has delegated authority to allocate and release contributions for external projects up to a maximum of £25,000 per project, following consultation with the relevant Ward Members, Portfolio Holder and Head of Finance.
- 1.7 In cases where a project requires the release of more than £25,000, it will be necessary for a report to be presented to the Council's Cabinet for specific approval.

¹ The tests have been amended to those listed by the Community Infrastructure Levy Regulations 2010, therefore do not appear exactly as listed in Circular 05/05.

1.8 Parish and Town Councils and, on request, other local groups will be provided at the end of each financial year with details of the amount of paid contributions which are available for projects in their area and the type of project the contributions could be spent on.

2. Stage One Process – Obtaining Agreement to Allocation of S106 Money

2.1 When a Parish/Town Council or local group has a project in mind, a request should be submitted to the Head of the Planning and Building Service, Beech Hurst, Weyhill Road, Andover, SP10 3AJ or by email to planning@testvalley.gov.uk.

2.2 The request should be supported by as much detail as possible, particularly preliminary estimates or quotations. Please ensure that more than one quote is submitted, and that the preferred quote is identified. The amount of detail required will be dependent upon the nature and scale of the proposed project.

2.3 When sufficient details have been provided, the following steps will be taken:

(a) A judgement will be made as to whether the project falls within the terms of the S106 Agreement.

(b) Confirmation will be sought from other relevant Council Services (e.g. Leisure) that the S106 money is not required for any existing or proposed scheme. If a scheme does exist then the S106 money will be earmarked for that scheme.

(c) Confirmation will be sought from the Head of Finance that there is no objection to the release of the S106 money as far as the Council's finances are concerned.

(d) Confirmation will be sought from the relevant Ward Member(s) and Portfolio Member(s) of their agreement for the S106 money to be used for the project.

2.4 The body making the request will then be advised as to whether, in principle, the S106 money can be allocated to the project and whether any further details are required. Where further details are required, a firm proposal with relevant documentation will be requested. When received, consultations will be carried out with relevant Services and any other bodies to ensure that the project proposal conforms to any necessary safety or construction standards and relevant legislation. The body making the request will then be advised as to whether or not the project has been assessed as sound on both financial and technical grounds.

2.5 If the project satisfies all criteria and the amount to be released is up to £25,000, the Head of Planning and Building will authorise the allocation and release of the S106 money for the project. If the amount to be released is over £25,000, a report will be presented to the next available meeting of the Council's Cabinet.

2.6 Retrospective applications for contributions can be submitted subject to evidence being provided which demonstrates the cost incurred and in accordance with the purpose for which it was sought.

3. Stage Two Process – Release of S106 Money

- 3.1 The release of the S106 money will be dependent upon the nature and scale of the project. Discussions will take place at an early stage on the most appropriate manner for each project. In some cases, in particular very small schemes, it may be possible to release the S106 costs in one payment whereas with larger schemes it is more likely that stage payments will be appropriate. In the case of larger schemes, a 5% retention amount will also be withheld until a satisfactory completion inspection has been carried out.
- 3.2 Payments will not be authorised without receipt of appropriate paperwork, e.g. signed contract certificates, suppliers' invoices, etc. Payments will be made as soon as possible after the documentation has been verified.
- 3.3 The Council will wish to satisfy itself that each project has been completed to a good standard and in most cases will arrange for an inspection of the completed works to be carried out by a relevant officer. The Council reserves the right to withhold the whole or part of any payment until a satisfactory completion inspection has been made.

Further details or information:	
Relating to the Council's SPD policy	please email planningpolicy@testvalley.gov.uk or contact the Planning Policy and Transport Service on 01264 368000
Relating to Green Spaces Strategy for Test Valley – Rural Focus	Please email leisure@testvalley.gov.uk or contact the Communities and Leisure Service on 01264 368000
Relating to project requests and payments	please email planning@testvalley.gov.uk or contact the Planning and Building Service on 01264 368000