



Section 106  
&  
Community  
Infrastructure Levy

A Guidance Document for Practices

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# S106 & CIL overview

S106 and CIL contributions overview	Guidance
<ul style="list-style-type: none"> <li>● Section 106 are developer contributions which are collected by the local authority from housing developers in order that estate schemes can be developed and put in place to mitigate against their housing developments. S106 funds are identified for and tied to a particular GP practice in a legally binding agreement. There is a set time limit within which these funds must be spent. This typically ranges from 5 to 10 years and there are restrictions on what the funds can be spent on. Any monies which are not spent within the allowable timeframe must be paid back to the developers.</li> <li>● S106 agreements are used to mitigate the impact of developments. They are legally binding agreements between developers/landowners and the Local Planning Authority (or Council).</li> <li>● The Community Infrastructure Levy (CIL) is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. It is usually chargeable in pounds per m2 if the net additional floor space is greater than 100 m2. CIL Regulation 123 list – list of infrastructure projects from the Infrastructure Delivery Plan that CIL funding may be spent on.</li> <li>● Once planning applications have been approved by the District and Borough councils, the S106 agreement begins. Any financial contributions for health allocated within these S106 agreements will be monitored. The District and Borough Councils provide the Estates team with regular reports of monies paid by developers in line with the agreements.</li> <li>● S106 planning obligations must pass three tests: they must be used to make the development acceptable in planning terms, must be used to mitigate the impact of a development on a specific site, and must be fairly and reasonably related in scale and type to the development. If the obligation involves a financial contribution, this can only fund capital investment and should be spent within an agreed timeframe. Any unspent money after this time is returned to the developer.</li> <li>● All triggered S106 payments are communicated to the relevant PCN Clinical Directors by your CCGs' Estates team to encourage their practices to work alongside the Estates team in agreeing schemes that meet the Section 106 agreement criteria.</li> </ul>	<p style="text-align: center;"><a href="#"><u>Securing S106 &amp; Community Infrastructure Levy funds</u></a></p>

# Planning obligations

Planning obligations	Guidance
<ul style="list-style-type: none"> <li>● There are a number of ways in which the planning system may be used to support improved health outcomes and help provide for new Primary Care infrastructure. Contributions which are secured by planning obligations must meet the statutory requirements provided in regulation 122 of the Community Infrastructure Levy Regulations 2010: <a href="https://www.legislation.gov.uk/ukdsi/2010/9780111492390/regulation/122">https://www.legislation.gov.uk/ukdsi/2010/9780111492390/regulation/122</a></li> <li>● Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are:               <ul style="list-style-type: none"> <li>* Necessary to make the development acceptable in planning terms.</li> <li>* Directly related to the development.</li> <li>* Fairly and reasonably related in scale and kind.</li> </ul> </li> <li>● Planning obligations may, for example, be used to mitigate the impact of development on the Primary Care Services by (the below is indicative and the list is not exhaustive):               <ul style="list-style-type: none"> <li>* The building of new premises to be used for providing Primary Care Services.</li> <li>* The purchase of premises to be used for providing Primary Care Services.</li> <li>* The development/refurbishment of premises which are used or are to be used for providing Primary Care Services which would result in increased capacity within the locality.</li> <li>* The increase of the existing floor area of a premises used for providing Primary Care Services which would result in an increase in capacity of the practice.</li> <li>* The purchase of fixed equipment or furniture which would result in an increase in capacity of the practice.</li> <li>* The transfer of land to provide new Primary Care facilities.</li> </ul> </li> </ul>	<p style="text-align: center;"><a href="#"><u>Securing S106 &amp; Community Infrastructure Levy funds</u></a></p>

# Healthcare facilities for new development

Healthcare facilities for new development	Guidance
<ul style="list-style-type: none"><li>● Although General Practices operate as individual businesses, they are contracted to the NHS and publicly funded for the delivery of Primary Care Services. They can seek borrowing to fund new developments or extensions to their existing premises and develop a business case to seek the revenue funding from NHS England and NHS Improvement towards the costs of their borrowing. NHS England and Improvement and GP Practices with an NHS contract adhere to NHS (General Medical Services - Premises Costs) Directions 2013 when they apply for and receive NHS funding for their premises.</li><li>● Where additional service capacity is required because of new housing, this requirement generates an incremental need for space over time as houses are built and sold. From an infrastructure perspective, the additional premises required to satisfy the full extent of the development may necessitate additional "void" space built and then utilised gradually during the life of the proposed development until completion. A Section 106 agreement will be sought to mitigate the costs for additional "void" spaces until a build programme is complete.</li></ul>	<p><a href="#"><u>Securing S106 &amp; Community Infrastructure Levy funds</u></a></p>

# Review of planning applications

## Review of planning applications

- Planning application consultations are received and reviewed by the CCG on behalf of the STP
- As part of the review process of planning applications, proposed developments are plotted on a map and a 2km radius is created to understand the primary care facilities that will most likely be impacted by the proposed development. If there are no facilities within a 2km radius the radius is expanded to reach the closest GP facility within the area.
- 2km radius is used as this is seen as a reasonable distance to access services without the need for a car, therefore enabling reduced car journeys and helping to create sustainable, healthy communities.
- Capacity of a Primary Care service is based on the space available for service delivery. Capacity is no longer based on the number of GP's within a practice. There is a current national shortage of GPs and the number of GP's working in a primary care facility does not accurately reflect the capability and capacity of a service. By providing adequate flexible space we are able to work with primary and community care providers to deliver a wide range of services delivered by a range of clinical professionals for the benefit of the local community and to support a reduction in hospital admissions.

### **The current formula used to identify capacity for planning purposes is:**

- 1,750 patients = a requirement for approximately 120m<sup>2</sup> (NIA) of space. This is building space only and does not reflect outside space required for car parking etc. 120m<sup>2</sup> is the approximate space required for a modern single GP practice with a list of 1,750 patients, incorporating all ancillary and circulation areas.
- The average cost for new build, refurbishment or reconfiguration of a modern primary care facility is approximately £2,300m<sup>2</sup>. This is the figure used to calculate a financial contribution for mitigation, if required.
- The average household size, as per the 2011 census, is used to estimate the number of patients generated by a development.

# Responding to planning applications

## Responding to planning applications

- Should there not be capacity in the area to accommodate the proposed development mitigation will be sought to help create capacity for additional patients generated by the development.
- In most circumstances increasing capacity at a primary care facility will involve works to increase capacity beyond the need generated by the development, this will be due to an existing capacity issues or to future proof the premises. Therefore mitigation sought, in order to be justifiable in regard to the NPPF, may fund only part of the works to be undertaken.
- At the time of responding to planning applications it is unclear when the development may be delivered, even if the site is listed in the Local Plan and features on the housing trajectory for the local authority or indeed if permission will be granted. This represents an issue when identifying a specific project for which planning obligation contributions will contribute to or fund in whole. For this reason responses, although identifying the GP premises for which contributions are sought, will remain vague with regard to the project identified for funding. Other reasons for not stipulating a project at an early stage include:
  - \* All projects are to be approved prior to implementation via the NHS England and NHS Improvement Prioritisation and Approval process.
  - \* All planning application responses are uploaded into the public domain; identifying a project at an early stage before funding is secured may raise public expectation and indicate a promise of improvements and increased capacity that may not be viable without a secured financial contribution.
  - \* A project identified and costed at an early stage may not meet the objectives of current strategies or could have significantly increased in cost, if it has been proposed some time prior to the delivery of the development.
  - \* In line with the NHS Long Term Plan the way in which primary care is delivered is changing, this includes the amalgamation of practices and co-locating of services. Having flexibility to attribute funding to scheme that may not have been identified at the time of responding to a planning application can help us to provide the most benefit to the community with the least amount of funding.
- Taking the above into consideration, in order to provide assurance to the local authority and the developer that funding from a development will be used for the benefit of the residents of said development; NHS England will provide full details of the project to be funded with S106/CIL funds at the point of draw down.



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