

**Section 106 Update  
Central Area Council  
February 2023  
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Section 106 Programme Manager**



**BARNSELY**  
Metropolitan Borough Council

# Section 106 Obligations

- Planning obligations, commonly known as Section 106 Agreements, are legal agreements negotiated between a Local Authority and developers. They are intended to make a development proposal acceptable which would be unacceptable without such an agreement, thus allowing planning permission to be granted. An agreement must be fairly and reasonably related in scale to the proposed development and be relevant to planning and should only be used where planning conditions attached to a planning permission would not provide an alternative approach.
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- Planning obligations/Section 106 agreements (based on that section of the 1990 Town & Country Planning Act) are used for three purposes:
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- **Prescribe** the nature of development (for example, requiring a given portion of housing is affordable)
- **Compensate** for loss or damage created by a development (for example, loss of open space)
- **Mitigate** a development's impact (for example, through increased public transport provision)



# Section 106 agreements - Barnsley

- In Barnsley, Section 106 Agreements have been used for a wide range of developments. Generally, it is possible to classify planning obligations in Barnsley into the following specific categories:
- **Affordable Housing** – Section 106 is the legal mechanism used to ensure affordable housing is delivered on site and retained thereafter. Where a developer is not providing all the required affordable housing on site, we sometimes accept a contribution to enable us to secure affordable housing elsewhere (e.g. Berneslai Homes new builds, buying up empty properties)
- **Education** – provision of additional primary and secondary school places where we can demonstrate there will be a shortage of places in the area the development is taking place
- **Public Open Space** – we accept contributions where a developer is not providing all the required open space on site (e.g. children’s play equipment, sports pitches)
- **Highways/Sustainable Transport** – we require a modest sum per new house to be used on walking/cycling/public transport infrastructure/initiatives. The sum per dwelling is greater when a site is within a less sustainable location.
- **Biodiversity** - biodiversity net gain is the term used to describe the process of increasing the overall biodiversity value of a development site.

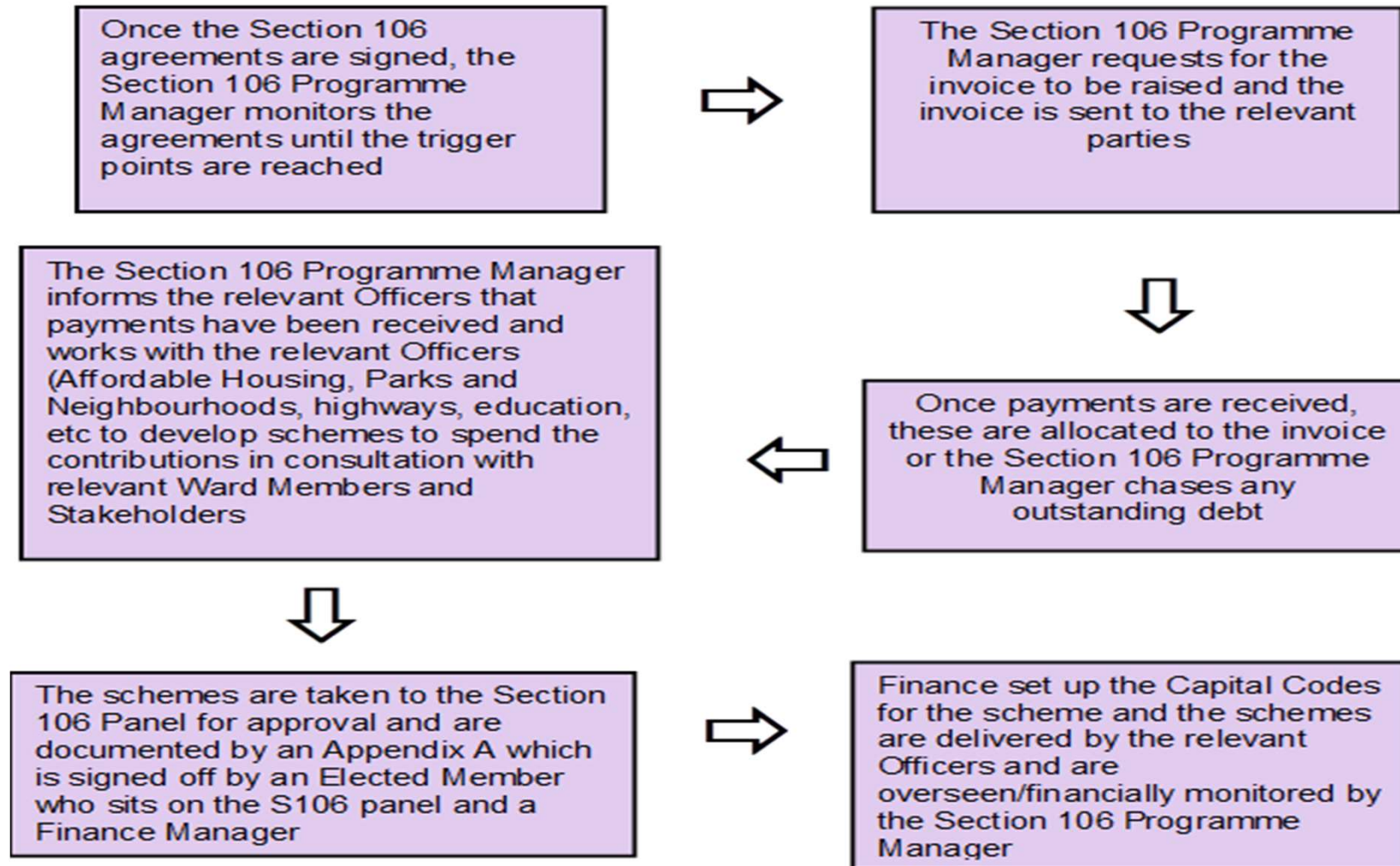


# The Section 106 Process For Spend of financial contributions

- Financial contributions are requested through Section 106 obligations when on-site infrastructure or affordable housing required by policy is not appropriate.
- Once the Section 106 has been signed, it will only come into effect if the planning permission is implemented and reaches the trigger point for payment such as on commencement or prior to occupation. When the Section 106 is signed, it is registered as a land charge which stays with the land, obligating any future landowners until the terms are met.



The flow chart below shows the process of the monitoring/spend of Section 106 monies:



A S106 Strategic Panel meets bi-monthly to consider schemes which have been put forward from a variety of stakeholders which can include, other council departments, elected members, local sports and recreation clubs and external partners. The Section 106 panel has representatives from planning, legal, finance, Parks, Communities and 2 Elected Members.



# Section 106 – Current monies

## **Current Public open space monies**

£7,074 currently available of S106 public open space monies for Central Ward from Burleigh Street development (2016/0300) and the wording in the Section 106 agreement is 'towards the provision of and/or improvements to informal open space and/or sports and/or recreation facilities within 1 mile of the boundary of the site' – Paul Marsh in Parks currently working on a scheme potentially at Brinckman Street or Princess Street public open spaces

## **Committed Scheme**

There is a current public open space scheme approved for improvements at Churchfield Gardens and at St Mary's Churchyard - £44,994.



# Section 106 – Future monies

## Future developments/monies

### **Grove Street Junior & Infant School, Grasmere Road (2015/0462)**

Public open space contribution of £30,000 (index linked) and the wording in the S106 agreement is ‘towards the provision or improvement of public open space within 3 miles of the boundary of the land’ – payment due on commencement of development

Education contribution – £49,168 (index linked) and the wording is ‘towards the provision or improvement of primary school accommodation within the Central Ward – payment due within 3 months of commencement of the development

### **Permanent Building, Church Street/Regent Street (2019/0186 and 2019/0188)**

Public open space contribution of £21,481.80 (index linked) and the wording in the S106 agreement is ‘Towards the provision of and/or improvement to informal open space and/or sports and/or recreational facilities within the administrative area of the Council - payment due on the occupation of the 16th dwelling. 12 dwellings occupied to date



# Annual Infrastructure Funding Statements

- Since 2019/20, the Section 106 Programme Manager produces an Annual Infrastructure Funding Statement which describes Section 106 activity for the previous year:
- The Council's internal process relating to Section 106 contributions
- The Section 106 contributions paid to the Council in a particular year
- Projects delivered in the Borough through Section 106 in a particular year
- Section 106 contributions secured for future years
- The reports can be found at the following link on the Council's website:
- <https://www.barnsley.gov.uk/services/planning-and-buildings/local-planning-and-development/our-local-plan/local-plan-research-and-evidence-documents/>

