

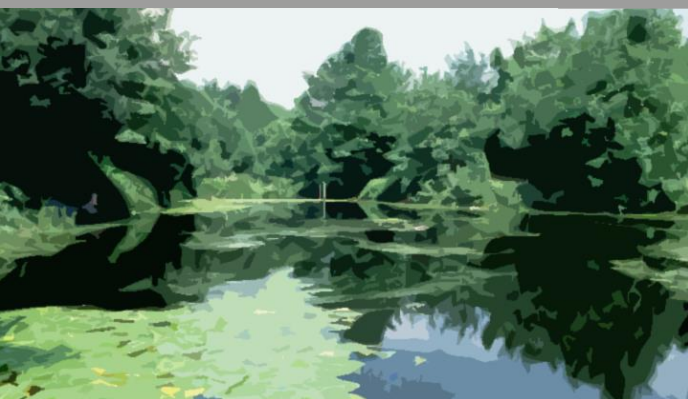


Framework for spending Section 106 developer contributions

Recreation



February 2025



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1. Introduction

- 1.1. Supplementary Planning Document (SPD) 1 provides guidance relating to how the Council will implement Unitary Development Plan Policy RT2/2 – Recreation Provision in New Housing which requires developers of 10 or more homes to make provision for the recreational needs of the prospective residents.
- 1.2. The SPD takes account of the National Planning Policy Framework's (NPPF) approach to open space, sport and recreation and evidence in Bury's Greenspace Audit and Strategy, the Community Infrastructure Levy Regulations 2010 as amended (CIL Regulations) and the national Planning Practice Guidance (PPG) on planning obligations.
- 1.3. New housing development usually leads to an increased local population and this can, in turn, result in increased demand and additional pressure on existing open space, sport and recreation facilities. It is essential, therefore, that developers of new housing make an appropriate contribution towards the provision or enhancement of open space, sport and recreation in order to meet the needs of the prospective residents and avoid the deterioration of existing assets. Provision for recreation can be required on-site in the case of large sites but provision is mostly made through a planning obligation to make a one-off payment through a Section 106 agreement. In the case of on-site provision, Planning Officers negotiate this through the planning application process, so the off-site provision is where this framework is applicable.
- 1.4. Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. They must be:
 - necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 1.5. These tests are set out as statutory tests in regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended by the 2011 and 2019 Regulations) and as policy tests in the National Planning Policy Framework.
- 1.6. Given that planning obligations must meet the specific tests set out in the Regulations and that the Section 106 Agreement secures developer

contributions for a specific purpose, all payments received for recreation are held in a ring-fenced account and can only be used for that purpose.

- 1.7. This document specifically sets out the framework and procedures used for spending monies received as off-site developer contribution for recreation.

2. Identifying projects for spend

- 2.1 As stated previously, recreation provision in association with new housing is normally made by way of a one-off payment that is secured through a Section 106 agreement and used to upgrade the quality of existing recreational space in the nearby area.
- 2.2 SPD1 includes advice on the level of payment required for off-site contributions and the types of sites that would be eligible for enhancement through these contributions.
- 2.3 The specific project that a developer contribution will be spent on is identified up front and specifically referred to in the Section 106 agreement.
- 2.4 The Strategic Planning and Infrastructure team inform the Parks and Countryside team of the receipt of relevant planning applications for housing and the amount of money due as the contribution towards recreation provision.
- 2.5 Key Officers in the Operations team are requested to identify potential projects relating to allotments, amenity greenspace, cemeteries and churchyards, civic spaces, natural and semi natural green space, outdoor sports, parks and gardens, and provision for children/young people as well as public rights of ways and cycleways.
- 2.6 The team will then identify a preferred project using priority distance thresholds from the development site and taking into account the findings of the Greenspace Audit and Strategy which identifies whether the area has any quantitative and/or qualitative deficiencies in various types of open space and the Playing Pitch Strategy which identifies demand and shortfalls for all pitch sports.
- 2.7 The priority distance thresholds from the proposed development site are as follows:
 1. Within 500m
 2. Within 2km
 3. Within 5km

4. Borough-wide – this would only apply to larger developments of 150+ units and would be confined to open space, sport and recreational assets that are of Borough-wide or sub-regional significance, such as Burrs Country Park, Kirklees Trail, Outwood Trail, Roch Valley Greenway etc.)
- 2.8 In most cases, Ward Councilors are consulted on the preferred projects and given opportunity to comment or provide alternative suggestions however on occasion there are times when an application has a short timescale to turn around the legal agreement and therefore there is not sufficient time to consult.

3. Management of spend

- 3.1 Incoming payments are paid into an account specifically set up to hold monies received as developer contributions for recreation from each development. The account is 'ring-fenced' to ensure that any monies will only be used for its intended purpose and in accordance with the specific project identified in the Section 106 agreement.
- 3.2 When Section 106 funding is received, a unique reserve code is generated by Operations finance for monitoring purpose. When projects are allocated these also have project codes assigned. When expenditure is made during a financial year against a project the required funding is drawn for from the Section 106 reserve to balance off the expenditure. Full records are maintained of income and expenditure against Section 106 codes.
- 3.3 Projects are then managed in accordance with the approved protocol as money is 'ring-fenced' for each project spend. Schemes where the overall value is over £500,000 are also reported to Cabinet.
- 3.4 A project programme plan is also prepared by Operations which is used to monitor expenditure and completion of projects together with an Operations green space and Section 106 project management group.

4. Monitoring

- 4.1 The Council's Strategic Planning and Infrastructure team will be responsible for monitoring payments made via Section 106 Agreements for the provision of recreation and, in particular, when triggers for payment have been reached, if and when money has been paid and where specific payments have been utilised.
- 4.2 In addition, any breaches of Section 106 Agreements will be identified and developers will initially be notified of the breach via correspondence from the

Service Manager of Strategic Planning and Infrastructure. However, the Council's Legal Services will be notified if breaches persist.

- 4.3 Provision will be made within any Section 106 Agreement for the return of funds if they have not been allocated or spent within 5 years of payment. As the Section 106 agreement allocates the funds to specific projects, this means that funds are always allocated before the deadline.
- 4.4 An Infrastructure Funding Statement¹ is produced annually by the Council setting out Section 106 income and expenditure for the previous financial year.

¹ <https://www.bury.gov.uk/planning-building-control/policy-and-projects/planning-policy/evidence-and-monitoring/infrastructure-funding-statement>

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