

# **Requirements for the collection and allocation of planning obligations**

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**Overview and Scrutiny Committee  
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**Folkestone**  
Hythe & Romney Marsh  
Shepway District Council



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# What are planning obligations?

- Planning obligations, also known as s106 agreements are private legal agreements made between local authorities and developers and can be attached to a planning permission to make acceptable development which would otherwise be unacceptable in planning terms.
- The land itself, rather than the person or organisation that develops the land, is bound by a Section 106 Agreement.

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# When can they be used?

- Government policy on the use of planning obligations is set out on the **Planning Practice Guidance website**. Local planning authorities must take this guidance into account in their decisions on planning applications and must have good reasons for departing from it.
- Planning Obligations are used for three purposes:
  1. **Prescribe** the nature of development (for example, requiring a given portion of housing is affordable)
  2. **Compensate** for loss or damage created by a development (for example, loss of open space)
  3. **Mitigate** a development's impact (for example, through increased public transport provision).
- Planning obligations must be directly relevant to the proposed development.

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# Anything else?

Community Infrastructure Levy Regulations 2010

From April 2014:

- 3 statutory tests  
necessary , directly related to development and fair and reasonable in scale and kind
- Planning obligations no longer collectable via tariff
- Maximum of 5 planning agreements can be used to fund a single project
- Clear distinction between what is funded by S106 and What is funded via Community Infrastructure Levy

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# What do we use them for?

- Policies in the Council's Core Strategy Local Plan and the saved policies of the Shepway District Local Plan Review identify types of infrastructure that can be funded or delivered via s106 agreements.
- This includes contributions towards education, health, open space, play space and highway and other transport improvements.
- The adopted Core Strategy 2013 includes an Infrastructure Delivery Plan, setting out the infrastructure required to be delivered so as to mitigate the impact of development.
- Guidance makes it clear that developer contributions should not be of a scale that would threaten the viability of sites identified for development in the Local Plan
- The Council will be updating the Core Strategy Infrastructure Delivery Plan alongside the submission of the Places and Policies Local Plan so as to ensure appropriate infrastructure is provided to mitigate the impact of development and the funding mechanism for its delivery is identified.

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# Examples

## Shorncliffe Garrison

- Land and funding towards new primary school
- New pavilion building, pitch enhancements and play facilities
- On and off site junction works to mitigate the impact of development
- On site affordable Housing (18% total)

## Sainsbury's Hythe

- Off site junction and highway works to mitigate the impact of development
- High street works and event fund
- Fund for adjoining properties to upgrade windows

## Broad Location, Sellindge

- New village green and open space
- Parish offices
- Land and funding for the expansion of the primary school to 1FE.
- Off site highway works to reduce speed limit in the village.

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# Role of CIL

- CIL adopted by SDC in August 2016
- Regulation 123 list of infrastructure also adopted
- Rates for residential vary across the district between £0, £50, £100 and £125 per square metre of new floor space created
- Also charging in place for large-scale retail outside of town centres
- 15% of CIL income for town and parish councils, 25% where a Neighbourhood Plan is in place.
- Updated Infrastructure Delivery Plan to be completed will identify funding stream for key infrastructure – CIL or s106.
- However
  - Acknowledged difficulties of balancing CIL and s106, especially where infrastructure needs multiple sites to contribute
  - Government reviewing CIL at present
  - May seek a CIL light approach, with s106 taken prominence and CIL replaced by a different tariff

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**Any questions?**

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