



Tamworth Borough Council Section 106 Statement

April 2015

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Section 1: Introduction

- 1.1 This statement has been prepared to clarify how Section 106 (S106) Agreements and Community Infrastructure Levy (CIL) will be used together to deliver planning obligations after 6 April 2015.
- 1.2 It demonstrates that upon adoption there will be no “double counting” between CIL and S106 – paying twice for the same item of infrastructure and that there is a clear and transparent system for identifying what infrastructure should be funded through CIL and in what circumstances an item would be in addition to CIL and would be paid through a S106 agreement.
- 1.3 The National Planning Policy Framework (NPPF) states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (paragraph 206). Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition and where they meet the following three tests:
- Necessary to make the proposed development acceptable in planning terms;
 - Directly related to the proposed development, and,
 - Fairly and reasonably related in scale and kind to the development.
- 1.4 In line with the CIL regulations 122 and 123, once a CIL charging schedule is adopted or after 6 April 2015 the Borough Council will only be able to pool up to five S106 contributions towards the implementation of a specific item of infrastructure. If an item of infrastructure is to be delivered wholly or partly through CIL, this item must be clearly exempt from a planning obligation and must be identified on the Council’s Regulation 123 (R123) list, which will detail the specific items of infrastructure that will be delivered with CIL. The R123 list will be prepared and adopted alongside the emerging CIL charging schedule.

Section 2: Current Planning Obligation arrangements

- 2.1 The Supplementary Planning Document – Planning Obligations was approved by the Council’s Cabinet on 25 July 2007.
- 2.2 The SPD was prepared to supplement policies and proposals in the Local Plan (adopted in 2006). Its purpose was to:
- Explain how the Borough Council will seek to ensure speed, transparency and consistency in the implementation of local plan policies through negotiated planning obligations
 - Indicate the infrastructure requirements which are likely to be needed to make development acceptable which would otherwise be unacceptable in planning terms;
 - Provide guidance on standard formulae for calculating contributions where appropriate;

- Set out standard legal agreements so all interested parties are aware from the outset of infrastructure proposals

2.3 The types of infrastructure to be funded are:

- Affordable housing
- Transport related matters
- Education
- Open Space
- Town Centre Car Parking
- Public Art
- Community Facilities
- Archaeology

2.4 The contributions collected in line with the current SPD are closely related to the delivery of infrastructure associated with the Local Plan (adopted 2006), but decisions on current planning applications take the emerging Local Plan and evidence into consideration where appropriate.

2.5 A revised SPD or update to this statement will be prepared and will be used alongside the CIL – once adopted and will clarify what S106 will be used for.

Section 3: Section 106 Agreements Post 6 April 2015 pre Adoption of the CIL

S106

3.1 S106 Agreements will be the main source of developer contributions prior to the adoption of a CIL charging schedule and will be used to fund or contribute to all necessary infrastructure associated with new development.

3.2 The regulations which come into force on 6 April 2015 will compel the Council and its partner infrastructure providers to be more focused and specific on what infrastructure is required and what specific project or item the developer contribution; is contributing towards.

3.3 The Infrastructure Delivery Plan (IDP) as part of the Local Plan will provide a list of specific infrastructure items and general infrastructure which development will contribute towards through S106 Agreements. Further detail on specific items will be shared with applicants as part of the pre-application process.

3.4 In-line with the regulations the Council will cease to operate a tariff style S106 approach and will require new development to contribute to specific infrastructure items. Table 2 sets out the approach the Council will take on the infrastructure types set out in the SPD. This table is not exhaustive of all types of infrastructure and will take the same approach on infrastructures types not listed.

Table 2

Infrastructure type	Planning Obligations SPD	Post 6 April 2015
Affordable housing	Development specific	<p>S106 Agreement discussions will take place for new residential developments of 11 or more units.</p> <p>The emerging Local Plan (submitted for examination 6 February 2015) contains detailed policies supported by an up to date evidence base. Applicants will be directed to these policies and we will be seeking to achieve the housing mix and amount of affordable housing set out in policy.</p>
Transport related matters	Development specific	<p>Identify specific project and infrastructure item based on the Infrastructure Delivery Plan and further detail held by the Council and infrastructure delivery partners.</p> <p>Discuss infrastructure and S106 at pre-application discussions.</p> <p>Developer contributions will be determined on a project by project basis; proportionate to the scale of that developments impact and the total cost for infrastructure.</p>
Education	Development specific and Tariff base approach	
Open Space	Development specific and Tariff base approach	
Town Centre Car Parking	Development specific and Tariff base approach	
Public Art	Development specific and Tariff base approach	
Community Facilities	Tariff base approach	
Archaeology	Development Specific	
Other – including SUDs	Not covered in the SPD	

CIL Draft R123 List

- 3.5 The draft R123 List will be updated for the CIL Draft Charging Schedule consultation and will take account of any updates to the IDP as part of the Local Plan process prior to adoption. The R123 list will not be used in determining what S106 Agreements are to be made for new development.

Section 4: Section 106 Agreements Post 6 April 2015 post Adoption of the CIL

Charging Schedule and R123 List

- 4.1 The adopted charging schedule will set the rates different types of development will pay in Tamworth. The schedule will be accompanied by several policy statements, covering; how CIL can be paid, payment in kind and discretionary relief. A R123 list will be prepared and adopted Charging Schedule, this will set out what the CIL will pay for. The Preliminary Draft Charging Schedule (PDCS) (October 2014) was accompanied by a draft R123 list which was drawn from the Local Plan's Infrastructure Delivery Plan. The IDP identifies the infrastructure required to delivery the spatial strategy and vision of the Local Plan and identifies which items are essential to the delivery of development to achieve economic growth and when each item is required in the plan period. The IDP sets out which items will currently be funded through developer contributions.
- 4.2 Table 1, the PDCS R123 list, gives an indication as to what the first R123 list for Tamworth will be. Comparing this to the existing SPD (2006) it shows that the vast majority of current infrastructure items will be delivered through CIL once it is adopted. Section 106 Agreements for these items will no longer be sought upon the adoption of the CIL.

Table 1 – PDCS R123 List

The Ventura Park/Town Centre/Rail Station Corridor Local Transport Package	
Borough wide cycle network extension and improvement	
Enhanced management, access and interpretation of Birmingham and Fazeley and Coventry Canals	
Improved signage to Town Centre Car Parks	
Town Centre Public Realm Enhancements Focusing on Key Gateways and Corridors	
Gateways:	Corridors:
College Campus	Upper Gungate
Train Station	Victoria Road
South East	Bolebridge Street
Ladybridge	Ladybridge
Lichfield Street	Lichfield Street
Employment Area Renewal	
Flood defence and drainage infrastructure maintenance	
Exploring Tamworth - Three successively wider circular routes incorporating existing footpaths or bridleways that permeate town and pass through open countryside with the emphasis on exploring Tamworth's wider green infrastructure network.	

Central Rivers Initiative projects identified in Tamworth
Tame Valley Wetlands Partnership
Enhanced facilities at Wigginton Park
Enhancement of Local Nature Reserves
Off-site maintenance and improvement of existing recreational open space: Urban parks Amenity open space Cemeteries Natural/semi-natural green space Civic Space
New play area in the County Drive area
Maintenance and replacement of equipment at existing play spaces
Multi-purpose community use leisure centre
2 Multi-use games areas in Town Centre, Kettlebrook or County Drive areas
Bowling green provision in south of Tamworth
Tennis court provision
Enhancement of Assembly Rooms
Enhancement of Tamworth Castle
Extension of existing schools in Tamworth
Business Incubation Units in Tamworth Cultural Quarter

S106

4.3 The ability to pool S106 contributions will be limited and the CIL will be used to capture developer contributions to infrastructure identified on the adopted R123. S106 will be used for on-site and off-site infrastructure items which are connected to a single or a small number of developments, which falls into four main categories:

- Affordable Housing – this is not allowed to be charged through CIL
- Infrastructure which is required as a result on specific development, and which is not included on the R123 list
- Commuted sum for the maintenance of facilities and infrastructure that the developer would like another body to adopt, and which is not included on the R123 list
- Mitigating the impacts of development – environment, transport and access, and which is not included on the R123 list

4.4 The emerging Local Plan (when adopted) and IDP will set out which items of infrastructure will fall within these categories.

Section 5: Model S106 Agreements

5.1 The current SPD contains several S106 templates which the Council will continue to use as a 'starting point' in the preparation of S106 Agreements. These templates will be updated in due course and updated on the Council's website.

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