



# Northumberland County Council

## Applying for the Affordable Housing S106 Developer Fund

July 2024

This guidance note sets out the process for applying for Section 106 monies from our Affordable Housing Developer Fund.

The guidance supersedes the second part of our previous Commuted Sums (Section 106 Agreements) Developer Fund for Affordable Housing Protocol (2017). The first part of that protocol (about the calculation of the S106 commuted sums required from applicants) was superseded by the [Northumberland Local Plan](#) (March 2022) – Appendix D in combination with Policies HOU 6 and INF 6.

### Introduction

1. When we receive financial contributions (commuted sums) from developers in lieu of building on-site affordable housing, we pool these monies together. They are then available for spending on delivering alternative off-site affordable housing in the local area or elsewhere in the county. We will manage this spending to help ensure identified affordable housing needs are met in line with the most up-to-date evidence. The monies can also be used to help fund the redevelopment and improvement of existing housing stock for creating new affordable homes.

### What can the S106 Developer Fund be used for?

2. The S106 funding can only be used towards the actual delivery of affordable homes. That is what developers have paid the financial contributions to the Council instead of. It is not available to fund initial feasibility studies that cannot be guaranteed to deliver new affordable homes. Affordable homes must meet the definition of Affordable Housing set out in the Government's [NPPF](#) glossary.

3. Examples of the sorts of projects that may be appropriate for funding by the S106 affordable housing contributions include:
- Building new affordable homes. This could include contributing towards buying land or properties for the specific purposes of developing the affordable homes.
  - Improvements to existing homes to make them affordable and sustainable. This could include enabling the purchase and bringing back into use of empty private sector homes, where this would improve the county's stock of affordable housing.
  - Initiatives that will deliver the development of sustainable, long-term affordable homes.
  - Funding the affordable element of supported housing schemes for older and vulnerable people.
  - Buying houses offered to the Council under the Right of First Refusal (related to the Right to Buy provisions) to then be let at an affordable rent.

## How much S106 funding is available?

4. The collective level of funding available to support affordable housing projects will vary. It will depend upon the amounts collected at any point in time, how much is available for spending in that particular area of the county, and on any other funding requests to support other affordable housing projects. This means that funding may be limited and sometimes there may be no funding available.
5. Our [Section 106 Contributions Table](#) sets out the amounts of S106 financial contributions held and received by the Council. It includes the monies currently available for spending towards affordable housing projects. It lists the locations of the developments that contributed the S106 funding. This influences what monies are currently available to apply for spending in particular areas. Otherwise, unrestricted monies are available to apply for spending across Northumberland as a whole.
6. Subject to the availability of funds, there is no prescribed minimum or maximum amount of funding that can be applied for in any application.
7. The Council has total discretion in the awarding of any funding grants made.

## Sequential approach to spending S106 monies

8. Section 106 agreements usually require commuted sum monies to be spent within a certain period of time (typically five years). Otherwise, unspent monies may need to be handed back. However, not all agreements are time-restricted.
9. In some cases, there may be no suitable options for spending the received funds on within the limited timeframe for spending them. For example, there may be no needs for more affordable homes in the local area. Or there may not be suitable site options or projects forthcoming for affordable housing in the immediate area.
10. A sequential approach is therefore used to guide the Council's preferences for where the S106 monies are spent. This seeks to ensure the monies received are appropriately spent to help deliver affordable homes in line with the county's identified needs and priorities. The cascaded approach is established in Policy HOU 6 (part 4) of the Northumberland Local Plan. The five stages can be broadly regarded as corresponding to years 1-5 following receipt of the monies. There is however discretionary flexibility when justified by the merits of a particular case.
11. The cascaded sequential approach for spending the S106 monies is as follows:
  - i) In the settlement (or grouping of parishes or electoral wards which make up the settlement) where the contribution arises.
  - ii) In an adjoining parish or ward.
  - iii) Elsewhere in the relevant housing market sub-area where the contribution arises. These sub-areas are identified in the most up-to-date Strategic Housing Market Assessment (SHMA).
  - iv) Elsewhere in the Local Plan Delivery Area where the contribution arises.
  - v) To cross-subsidise affordable housing provision where priorities are identified throughout the county.
12. There are otherwise no legislative restrictions on the pooling of S106 contributions for affordable housing.

13. The spending of S106 affordable housing funds will be audited and monitored through our annual Infrastructure Funding Statement.

## S106 Developer Fund application process

14. Applications can be made by not-for-profit organisations, such as:
- Registered Providers
  - Community Land Trusts
  - Other not-for-profit housing providers approved by the Council
  - Any other organisation providing affordable units in perpetuity
15. Organisations that are not Registered Providers (RP) must be eligible to deliver the relevant affordable tenure products if they are to be supported by the S106 Developer Fund. The current restrictions are set out in the [NPPF definition](#) of affordable housing. For example, if not delivered by an RP, affordable rented housing can only be developed as Build to Rent housing. Individuals or businesses are **not eligible** for funding.
16. To safeguard the funding and the long-term community benefit of the affordable homes delivered with this funding, we will favour bids from organisations that are Registered Providers. This gives confidence that the applicant has robust governance arrangements in place to protect the financial contribution granted.
17. Projects should also preferably have an extant planning permission in place. Otherwise, they should at least be the subject of a live planning application. Funding bids for projects without planning permission or a live application will not be supported.
18. Providers will also need to demonstrate a long-term commitment to providing and managing affordable homes. Some 'milestone' reporting will be required. This is to ensure that schemes are delivered promptly and as intended. We expect that, by the application stage, a detailed and costed project plan will have been developed so the proposal can be assessed objectively. This will include key development points or 'milestones' that we will use to measure the progression of the project and which may act as triggers for paying funding instalments (if applicable) at appropriate stages.

19. We expect applicants to combine funding from other sources to fund the total project cost. This may include other Northumberland County Council grant award schemes, Homes England funding and/or other Government funding. Details of other funding secured and anticipated must be provided in the application form. Due to legal Subsidy Control (formerly State Aid) rules, applicants should be aware that there may be limits on the total amount of public subsidy funding that can be received.
20. Successful bidders will need to enter into a formal Grant Agreement with Northumberland County Council.
21. Proposals should be discussed at the earliest opportunity with our Housing Enabler. They will also be able to highlight identified housing needs for the area in which the project is located. Our Housing Enabling Officer can be contacted at [housing.proposals@northumberland.gov.uk](mailto:housing.proposals@northumberland.gov.uk).
22. Applications for funding can then be made by completing our Affordable Housing S106 Developer Fund application form. You can download a copy from our Affordable Housing webpage.

## How will funding applications be assessed?

23. Applications will be considered by a cross-service panel of officers. They will make recommendations as whether an application should be approved or refused. The Panel comprises senior and specialist officers from several professional disciplines. These include planning, housing, estates, legal and external funding. At least four officers will attend any Panel meeting.
24. The panel will review and assess bid applications. Any competing bids for the same pool of funding will be compared. A formal appraisal of the business case will be necessary before a final decision is made. This is to ensure that matters of due diligence, viability and UK Subsidy Control Rules (formerly State Aid) are appropriately considered.
25. Applications will be assessed against the following criteria:
  - Is there is an identified need for affordable housing in the local area?
  - Does the evidence provided demonstrate viability?

- Will the new affordable homes be more energy efficient than the existing housing stock?
  - Will it represent value for money?
  - Is there any other matched funding?
  - What previous consultations have taken place with the Council? For example, with Planning, Housing Enabling / Affordable Housing team, Highways, Strategic Estates.
  - What level of community consultation has been carried out?
  - Is there a clear project plan?
26. Projects should incorporate good design, energy efficiency and sustainability. They should also have appropriate future management arrangements.
27. We reserve the right to require additional supplementary information to be provided, or to seek further clarification relating to information that has been provided.
28. We are keen to ensure that money is not lost on aborted schemes. We will also not take the risk of approving funding for projects that are only at conception stage. This ensures each application is assessed accordingly. The funding can be time-limited, so may have to be spent by a specific deadline. We therefore need as much certainty over delivery as possible.
29. We expect the outcomes and homes delivered as a direct result of using the S106 funding to contribute to the affordable housing supply in perpetuity. We may impose conditions to this effect. This may include conditions for the repayment of any grant if the conditions of the award are not met.
30. The final decision and approval for making any grant award based on the Panel's recommendation will be signed-off in line with the Council's financial regulations. More complex applications may be subject to a slightly longer approval process.
31. We will keep a record of how the Panel assessed each bid, and how any competing bids were compared. This ensures general consistency in applying the assessment criteria.

32. Funding may be paid up-front or in agreed instalments. This will depend on the nature of the scheme.
33. We are committed to open government and to meeting our legal responsibilities under the Freedom of Information Act 2000. All information submitted to a public authority may therefore need to be disclosed by the Council in response to a request under the Act. If an applicant considers that any of the information included in their bid is commercially sensitive, they must:
- identify that information;
  - explain what harm may result from its disclosure if a request is received; and
  - the time period applicable to that sensitivity.