

Section 106 Agreements

Guidelines on Contributions to Play & Sports Facilities

Former Wansbeck District Council Area

Introduction

Northumberland County Council (“the Council”) is committed to the provision and maintenance of sport, play and recreation facilities throughout the County in response to the demonstrated needs of the area. Participation in sport and recreation activities encourages good health, promotes a sense of well being and encourages sporting excellence. It can also provide a valuable social and economic function and aids in the promotion of sustainable communities. The provision and maintenance of sport and recreation facilities furthers the Council’s corporate aim of “strengthening our communities”.

Policy Framework

All planning applications are assessed by reference to the Development Plan, which comprises the Northumberland Structure Plan and the Wansbeck District Local Plan, was adopted in July 2007. Planning applications are determined in accordance with the terms of the Development Plan, unless material considerations indicate otherwise. Therefore, the policies contained in the Development Plan are of extreme importance in considering any application for development.

In addition to the Development Plan, the Council has regard to central Government planning policy, notably NPPF and NPPG. The assessment of the provision for Sport and Play carried out identified shortfalls in the provision of sport and recreation facilities in Wansbeck. The Council adopted a Supplementary Planning Document - Provision for Sport and Play Supplementary Planning Document in February 2009.(the SPD)

The Community Infrastructure Levy (Amendment) (England)(No.2) Regulations 2019 came into force on 1 September 2019. These regulations make a number of important changes to the operation of the Community Infrastructure Levy (CIL) and section 106 planning obligations. These changes included removing altogether the ‘pooling restriction’ which prevented charging authorities from entering into more than five section 106 obligations to fund a single infrastructure project and allowing authorities to charge developers for the costs of monitoring planning obligations. Following a review of the relevant legislation and policy, Northumberland county Council will be requesting contributions towards Sport and Play infrastructure in the Tynedale and Wansbeck Areas for development of one or more dwellings from **any applications validated on or after 1st April 2020.**

Requirement for Section 106 Agreement

Section 106 of the Town and Country Planning Act 1990 provides that a person with an interest in land can enter into a planning obligation by agreement or otherwise (“a s106 Agreement). A s106 Agreement will only be sought when it is necessary to make the proposed development acceptable in planning terms; is directly relevant to the proposed development and is fair and reasonable in scale and kind to the proposed development.

The provision of new housing necessarily leads to an increase in the use of local services. In many areas there are inadequate children’s play or sports facilities. The NPPF makes it clear

planning obligations should be used as a means to remedy local deficiencies in the quantity or quality of open space, sports and recreational provision.

In accordance with adopted policy, the Council seeks a contribution to outdoor sports or children's play facilities on all housing developments in areas where there are deficiencies in existing provision for children's play and/or outdoor sports or where the housing development would lead to a deficiency in provision. The deficiencies are established through the Open Space, Sport and Recreation Strategy. The requirements give the Council the ability to seek the on site provision of recreation facilities as part of housing schemes or alternatively where this is not feasible or appropriate seek financial contributions in lieu of provision.

Is a S106 Agreement necessary

Where a financial contribution is sought, the Council will not issue the planning permission until the developer has entered into a S106 Agreement. It is important that this method is used in order to monitor development and to enable clawback if the money is not used.

What are the current requirements

The Council's Supplementary Planning Document - Provision for Sport and Play Supplementary Planning Document (SPD) established the principle that new or improved facilities are required across the Wansbeck District Area. The SPD sets out the requirements and financial contributions which are as below;

Summary of financial contributions sought per dwelling in lieu of on-site provision for sport and play:

Provision of children's play space	£622
Maintenance of children's play space	£146
Provision of outdoor sports facilities	£293
Maintenance of outdoor sports facilities	£165
Provision of indoor sports facilities	£362
Total contribution (where no provision for sport and play at all made on site)	£1,588

What happens to financial contributions

Contributions are collected and held in a special fund for the local area. For Children's Play the funds are for play areas within the vicinity of the development are restricted to the parish or Ward of the development. For indoor/outdoor sports funds are for the entire former Wansbeck District Council Area. Funds are not transferred from one area to another. The Council distributes these funds through a grant scheme to enable the delivery of new or improved facilities by Parish and Town Councils and other community organisations.

What type of facilities are provided

In general, the Council will seek children's play facilities and/or sports facilities, depending on the needs of an area. However, in some cases, the Council will also seek areas of public open space which can be used more informally. The requirements will vary according to the needs of an area.

Children's play facilities are often required for a particular development (e.g. small play area incorporated into a development) or within a village or parish. This reflects the fact that such facilities should be near to the families who use them and easy to access. Some developers will be able to provide the full requirement on land within their ownership. However, in many cases, the site is unsuitable for a play area to be provided. In these cases, the developer will be asked to make a financial contribution in lieu of the play area. On other occasions, a mix will be appropriate, with some equipment provided on-site and a financial contribution to off-site facilities.

Sports facilities are shared by a much larger population. It is clearly inappropriate for each small village to have a full sports centre. In these cases, need is assessed by reference to a group of parishes and facilities are provided which can meet the needs of that larger area. It is likely that a financial contribution will be sought to provide sports facilities, rather than the developer actually providing the facilities. It is also possible that the contributions will be used towards facilities provided some distance from the actual development, although still within the same parish grouping.

Where a financial contribution is made towards the provision of new facilities, a developer will also be asked to make a contribution to the continuing maintenance costs of those facilities. Where a developer has provided the facility (e.g. a play area) and wishes to transfer the maintenance responsibility for that area, the developer will be asked to make a contribution to the continuing maintenance costs of those facilities. It is usually appropriate for the developer to actually transfer the land on which the facility is provided.

Procedure and fees

The Council is under pressure to ensure that planning applications are determined quickly and in accordance with Government targets. Developers wish planning applications to progress quickly to reduce costly delays in development.

The Council will expect all applicants to have completed a s106 Agreement before their planning application is determined. This may require an extension of time to be agreed.

Applicants will need to produce evidence of title to the land. This will take the form of office copy entries for registered land dated in the last three months. Applicants who have unregistered land or who are unable to produce office copy entries for any other reason should contact the Council's solicitor as soon as possible. Applicants should ensure that a coloured copy of the office copy title plan is also provided.

Applicants should note that a s.106 Agreement will need to be completed by every person with an interest in the land. This means that it will be necessary for mortgagees, co-owners and tenants to be parties to the agreement.

A s.106 Agreement is a legally binding agreement which affects the future use of the land. It is binding on the applicant and all successors in title. It is registered as a local land charge. This may affect the future sale or use of the land. Applicants are strongly advised to take their own legal advice before completing a s.106 Agreement.

Legal Fee

The Council expects the applicant to pay the Council's legal fees. Fees are expected to start **from £525** however a higher fee may be charged where the matter is particularly complex or negotiations have become protracted. Applicants should confirm the appropriate fee with the Council's solicitor

Monitoring fee

An assessment has been made to determine the monitoring fee to ensure it is fairly and reasonably related to scale of development. The fee has been set as follows:

Individual dwelling - a flat rate fee of **£140**

Minor Development (2 to 9 dwellings or <1000sq.m.) - a flat rate fee of **£280**

Major Development (10 or more dwellings or 1000sqm+) - a flat rate fee of **£560**
(plus additional fee calculated at £35 per hour based on officer estimate of additional work involved in monitoring obligations)