

# INTERIM PLANNING GUIDANCE NOTE IPGN: **PLANNING OBLIGATIONS**

This Interim Planning Guidance Note explains how Fenland District Council will use planning obligations (Section 106 agreements) to make development acceptable in planning terms. Planning obligations help ensure that new development is supported by the infrastructure, services and mitigation it requires.

The guidance sets out when obligations may be needed, how they will be assessed, and what applicants should expect during the planning process. It provides a consistent and transparent approach that supports timely decisions and proportionate contributions.

# 1 INTRODUCTION AND PURPOSE

- 1.1 This Interim Planning Guidance Note explains how Fenland District Council applies planning obligations (Section 106 agreements) when assessing development proposals. Its purpose is to provide clear, accessible information for applicants, agents, landowners and communities on when obligations may be required, how they are assessed, and how they help make development acceptable in planning terms.
- 1.2 Planning obligations are used to address the impacts of development where these cannot be dealt with through planning conditions alone. They may secure financial contributions, works or other commitments necessary to ensure that a proposal is suitable, sustainable and properly supported by infrastructure.
- 1.3 This guidance complements the Fenland Local Plan, particularly Policy LP13 (Supporting and Managing the Impact of a Growing District), and should be read alongside national guidance on planning obligations, the NPPF and the Community Infrastructure Levy Regulations.

# 2 LEGAL AND PLANNING FRAMEWORK

- 2.1 Planning obligations must meet the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). Obligations will only be sought when they are:
  - a) necessary to make the development acceptable in planning terms
  - b) directly related to the development
  - c) fairly and reasonably related in scale and kind
- 2.2 These tests ensure that obligations are proportionate and focused on mitigating the actual impacts of a proposal.
- 2.3 Fenland District Council does not currently operate a Community Infrastructure Levy (CIL). All required infrastructure contributions are therefore secured through Section 106 obligations.
- 2.4 To support timely decision-making, applicants are strongly encouraged to engage in pre-application discussions. Early dialogue helps identify likely infrastructure requirements, clarify the scope of any obligations and avoid delays later in the process.
- 2.5 Where required, a completed planning obligation must be agreed and in place before planning permission is able to be granted. To ensure a timely decision can be made on a planning application, the Council expects that a Heads of Terms for a S106 is provided at the validation stage of a planning application. Planning

approval subject to a S106 Agreement may be granted by the Planning Committee, but this will depend on the S106 being substantially completed (and where necessary Committee being made aware of its substantive contents) and being capable of being signed by all parties very soon after the decision is made.

### 3 OBLIGATIONS AND CONTRIBUTIONS

3.1 Planning obligations may be sought from any scale of development, except where size thresholds are specified. It has been indicated in the table where contributions/ obligations are sought by Fenland District Council (FDC) or Cambridgeshire County Council (CCC).

Contribution/ Obligation	Amount/ Details	Payment Due/ Timing
<b>Affordable Housing (FDC)</b> (See Policy LP5 Meeting Housing Need)	25% of dwellings on sites of 10 or more dwellings	Built prior to 50% occupation of market dwellings. Transferred to RP prior to completion of affordable units.
	20% of dwellings on sites of 5-9 dwellings	
	Tenure mix to be informed by the latest local Strategic Housing Market Assessment and government guidance.	Agreed prior to planning permission being granted
	Off-site contribution will be calculated using Council's Policy LP5	Prior to commencement
<b>Biodiversity Net Gain (FDC)</b>	A minimum of 10% gain in biodiversity value for: <ul style="list-style-type: none"> <li>Residential developments of 1 or more dwellings</li> <li>Non-residential buildings</li> </ul> <a href="#">Developments exempt from Biodiversity Net Gain: See FDC website page</a>	
	Biodiversity Net Gain Monitoring Fee – bespoke calculation	Prior to commencement

<b>Contribution/ Obligation</b>	<b>Amount/ Details</b>	<b>Payment Due/ Timing</b>
<b>CCC Monitoring Fee</b>	Bespoke calculation <a href="#">See CCC 'Planning Obligations Strategy' (March 2016)</a>	Prior to commencement
<b>Community Facilities (FDC)</b>	<p>On-site provision will be sought for strategic allocations or broad locations for growth (i.e. 250 homes or more).</p> <p>A financial contribution will be sought for developments of 5-250 dwellings. This will be a bespoke calculation based on:</p> <ul style="list-style-type: none"> <li>• local provision/ capacity in the vicinity</li> <li>• whether new build or enhancement to existing facilities is most appropriate</li> <li>• the legal tests for planning obligations</li> </ul> <p>No contribution will be sought for schemes of 1-4 dwellings.</p>	Prior to first occupation
<b>Culture, Leisure and Heritage (FDC)</b>	<p>Sought in appropriate site-specific cases for the provision of new/ upgraded/ expansion of existing facilities and/ or restoration or maintenance of heritage assets and their settings.</p> <p>On-site provision will be sought for strategic allocations or broad locations for growth (i.e. 250 homes or more).</p> <p>A financial contribution will be sought for developments of 5-250 dwellings. This will be a bespoke calculation based on:</p> <ul style="list-style-type: none"> <li>• local provision/ capacity in the vicinity</li> <li>• whether new build or enhancement to existing facilities is most appropriate</li> </ul>	Prior to commencement

Contribution/ Obligation	Amount/ Details	Payment Due/ Timing												
	<ul style="list-style-type: none"> <li>the legal tests for planning obligations</li> </ul>													
<b>Education (CCC)</b>	<a href="#">See CCC ‘Planning Obligations Strategy’ (March 2016)</a>	Prior to commencement												
<b>FDC Monitoring Fee</b>	£520 per S106 schedule/obligation to be monitored	Prior to commencement												
<b>Fenland Agricultural Grants Programme</b>	Bespoke calculation	Prior to commencement												
<b>Healthcare (FDC on behalf of NHS)</b>	Bespoke calculation	Prior to commencement												
<b>Libraries (CCC)</b>	<a href="#">See CCC ‘Planning Obligations Strategy’ (March 2016)</a>	Prior to first occupation												
<b>Open Space (FDC)</b>	<p>Appendix B of the Fenland Local Plan sets out the thresholds for onsite open space provision.</p> <p>Off-site financial contributions will be sought as follows:</p> <p><b>Open Space</b> – A financial contribution will be sought for sites between 0.5ha and 10ha based on the following:</p> <table border="1" data-bbox="592 1442 1110 1731"> <tbody> <tr> <td>1 Bed</td> <td>£416</td> </tr> <tr> <td>2 Bed</td> <td>£608</td> </tr> <tr> <td>3 Bed</td> <td>£813</td> </tr> <tr> <td>4+ Bed</td> <td>£972</td> </tr> </tbody> </table> <p><b>Children’s Play</b> – A financial contribution will be sought for sites under 2ha based on the following:</p> <table border="1" data-bbox="592 1883 1110 2024"> <tbody> <tr> <td>1 Bed</td> <td>£0</td> </tr> <tr> <td>2 Bed</td> <td>£711</td> </tr> </tbody> </table>	1 Bed	£416	2 Bed	£608	3 Bed	£813	4+ Bed	£972	1 Bed	£0	2 Bed	£711	Prior to 50% occupation on site
1 Bed	£416													
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Contribution/ Obligation	Amount/ Details		Payment Due/ Timing
	3 Bed	£950	
	4+ Bed	£1,136	
	No contribution will be sought for children's play space from sites below 15 homes.		
<b>Open Space Management</b>	Public open space must be transferred to a management company to maintain the open space in perpetuity.  Where open space ownership is to be transferred to a Local Authority or a Town or Parish Council a management fee will be charged. This fee will be calculated on a case-by-case basis.		Post completion (Following issue of the certificate of final completion)
<b>Self-Build/ Custom Build</b>  See Government definition: <a href="#">Self-build and custom housebuilding - GOV.UK</a>	Applicants are required to enter a S106 agreement to secure a dwelling as a self-build/ custom build. A template agreement is available on the council's website.		S106 to be submitted with planning application.
	Written confirmation that the provisions of the S106 agreement or Unilateral Undertaking have been complied with in relation to self-build/ custom build units.		Within 14 days of completion of each dwelling
	Submit evidence of self/custom build mortgage or approval from HM Revenue & Customs of a VAT repayment claim.		Within 12 months of completion of each dwelling.
<b>Social Care and Supportive Services (CCC)</b>	<a href="#">See CCC 'Planning Obligations Strategy' (March 2016)</a>		Prior to 50% occupation on site
<b>Transport and Highways (CCC)</b>	<a href="#">See CCC 'Planning Obligations Strategy' (March 2016)</a>		Prior to 50% occupation on site

<b>Contribution/ Obligation</b>	<b>Amount/ Details</b>	<b>Payment Due/ Timing</b>
<b>Travel Plan (CCC)</b>	<a href="#">See CCC 'Planning Obligations Strategy' (March 2016)</a>	Prior to first occupation
<b>Travel Plan Implementation and Monitoring Fee (CCC)</b>	<a href="#">See CCC 'Planning Obligations Strategy' (March 2016)</a>	Prior to first occupation
<b>Waste (CCC)</b>	<a href="#">See CCC 'Planning Obligations Strategy' (March 2016)</a>	Prior to 25% occupation

### **Phasing**

- 3.2 For large financial contributions, it may be possible to negotiate phased payments, particularly where it helps to improve scheme viability. However, this will need to be agreed by the Council.

### **Indexation**

- 3.3 To address the possible rise in infrastructure costs over the duration of a Section 106 agreement, some financial contributions will be adjusted and modified in line with an index of inflation. Financial contributions are usually linked to the Royal Institute of Chartered Surveyors (RICS) Building Cost Information Service (BCIS) indices. This approach will account for the inflationary costs that may occur between the signing of a Section 106 Agreement and the actual payment.