

Section 106 agreements

Section 106 agreements draw their widespread informal name from Section 106 of the Town and Country Planning Act 1990. Under that law a developer may negotiate with local authorities to agree contributions and restrictions that constitute planning obligations on the development. The contributions, whether as money or in kind, are intended to offset costs of the development to the community. They can be wide-ranging: they might include providing affordable housing, providing school places, making training available, repairing damaged roads, replacing open spaces, offsetting carbon emissions, monitoring green performance, and so on.

The planning obligations on a development are specific to that development (though there can be exemptions for entire classes of development); they therefore await the outcomes of the negotiations between the developer and the local authorities. To reduce the uncertainty and delay, some local authorities have formulas for some of the obligations, based on the general characteristics of the development; these might depend on the demand for particular services (such as school places) expected from the development or simply on the floor area of the development. Doing this has been formalised under the Planning Act 2008 by providing to local authorities the option of introducing a community infrastructure levy. This levy is calculated according to a fixed formula dependent on few factors, such as floor area; it is not specific to a particular development (except through these factors) and is therefore not negotiable. However, section 106 agreements remain relevant to the special characteristics of a development.

The outline planning permissions for the development site at King's Cross were granted before the community infrastructure levy became applicable, so the section 106 agreement determined all the contributions and restrictions (under forty headings). The contributions as money included (for example) £30,000 for studying the feasibility of having a Maiden Lane railway station and £4,248,000 for augmenting four bus routes; the contributions in kind were to provide not only affordable housing but also facilities for bicycle storage, community meetings, construction training, indoor sports, leisure, police, primary health care, primary school education and the Camley Street Natural Park. These became due at different times in the development, and some were subsequently superseded by agreement between the developer and the planning department. Most notably the amount of affordable housing was reduced (though the prices at which it would be transferred to social housing providers were not raised).

More details are available from the government website¹ and the planning portal website².

¹ [Planning obligations - GOV.UK](https://www.gov.uk/guidance/planning-obligations) <https://www.gov.uk/guidance/planning-obligations>.

² [The decision-making process - Planning Portal](https://www.planningportal.co.uk/planning/planning-applications/the-decision-making-process/conditions-and-obligations). <https://www.planningportal.co.uk/planning/planning-applications/the-decision-making-process/conditions-and-obligations>.