

REQUESTS FOR S106 CONTRIBUTIONS

1. Introduction

Section 106 agreements are legally binding contracts between a developer and North Somerset Council (and sometimes other partners). They require the developer to provide funding or take an action to mitigate the negative impacts of their development. In North Somerset they are normally applied to planning applications for more than 10 dwellings and/or for other large-scale proposals.

Anyone can make a request for S106 contributions, provided that they have the evidence to justify it.

In 2015, North Somerset Council is likely to introduce a Community Infrastructure Levy (CIL), which is another method of collecting developer contributions towards infrastructure. However at the current time the only option is the S106 agreement.

2. How do I request a S106 contribution?

First – please read the guidance on Section 106 regulations set out in Appendix A. This is very important as if your request does not comply with the regulations it is not likely to be accepted.

Second – if you think your request fits with the guidance, please complete the attached form (Appendix B). It is important that you fill in as many of the boxes and provide as much information as possible. This will help the case officer in their negotiations with the developer.

Please note that we can only consider S106 requests in relation to specific planning applications. We cannot accept general requests for contributions from non-specific future development.

3. What happens next?

Requests should be sent to the case officer, who will look at them to see if they fit the guidance and national regulations.

If the request is compliant, the case officer will discuss it with the developer and relevant North Somerset officers and / or councillors (for example, the local ward members, planning committee and / or Executive Member). If all parties agree to the request, it will be included in the legal agreement for action.

In some cases, a request may be legitimate but the developer may argue that they cannot afford it. This is increasingly common in the current economic climate. National guidance requires North Somerset Council to consider whether any reasonable compromises can be made to help development come forward.

The process that is followed in these cases is as follows:

Firstly, we would require the developer to prove that they cannot afford the requested contributions. The developer will have to provide detailed evidence of their income and expenditure assumptions and where necessary the Council will get this checked by an independent expert.

Secondly, the Council would consider whether any of the requests can be changed to make them more affordable – for example, whether they can be provided at a lower specification or at a later phase of the development.

Thirdly, the Council will consider whether it is possible to reduce or remove some of the contributions without having an overly negative impact on the development and local area. This would be done by looking at all of the requests that have been made (using the information provided on the form) and classifying them as Level 1, 2 or 3. The criteria for these different categories are provided below. The resulting prioritisation would be used to inform a decision from senior council officers and / or relevant councillors about whether some of the lower priority requests could be reduced or removed to help development proceed.

If the Council decided that there wasn't any room for compromise or if an agreement still couldn't be reached with the developer, then the planning application could be refused. This might lead to a planning appeal by the developer. Such appeals can be expensive for the Council and in addition can result in development being approved by the Planning Inspectorate that we might not otherwise support.

These are the criteria by which we would prioritise requests:

Level 1: time-critical:

This means that the delivery of the infrastructure is required at a specific stage of development for one or more of the following reasons:

- The consequences of *not* providing the infrastructure within the specified time-frame are economically and/or socially unacceptable.
- The medium to long term costs of *not* providing the infrastructure outweigh the short term costs of providing it.
- The infrastructure in question provides for or unlocks significant development and growth that might not otherwise happen.
- Growth is unlikely to happen in the timeframe envisaged unless the infrastructure in question is put in place 'up front'.
- The early implementation of the infrastructure will create an environment or conditions in which the private sector can act to deliver projects which are fundamental to bringing about rapid change in the balance of the economy from the public to the private sector, or other significant beneficial economic change.

Examples might include key access roads, services or flood mitigation without which development cannot commence.

Level 2: necessary, but less time-critical:

This means that the infrastructure is important to the delivery of the vision, objectives and development strategy for the area as set out in the North Somerset Local Plan, but that there is a degree of flexibility about the timing of delivery, enabling some infrastructure to be delayed by a short to medium time period beyond the desired delivery date if there is a good reason for doing so. Such flexibility will be assessed on a case-by-case basis and will not be absolute - in all but the most exceptional cases delivery would still be expected prior to the completion of relevant developments.

Level 3: desirable:

This means that the infrastructure supports the vision, objectives and development strategy for the area as set out in the North Somerset Local Plan, and is of genuine benefit at a neighbourhood, local or sub-regional level. However, whilst the infrastructure would be beneficial in helping North Somerset to accommodate growth, growth may be able to take place without its implementation.

GUIDANCE ON SECTION 106 REGULATIONS

1. Basic rules:

S106 requests can only be made in order to mitigate the negative impacts of a specific development. Therefore the first question to be asked is: “will this new development have an impact on the infrastructure or service in question beyond that which it can cope with?” and if so, “what would help to reduce or remove that impact?”

Any contribution to be negotiated through a S106 agreement **must** meet **all three** of the following tests. It must be:

(a) Necessary to make the development acceptable in planning terms

e.g. if the contribution was not made, would North Somerset Council have a **legal (planning policy) basis for refusing planning permission?** If the answer is ‘no’, then you cannot ask for the contribution.

Example: a request could be made for flood mitigation measures if without them the new properties in question (and perhaps others nearby) would flood. The request would need to show that existing flood mitigation was inadequate / lacking in capacity to deal with the new development.

The Case Officer for the planning application should be able to provide advice about this.

AND**(b) Directly related to the development**

e.g. the request must identify a **quantifiable, specific impact caused by the development that the contribution would address**. Contributions cannot be used to address problems that existed prior to the development, or problems that reach a ‘tipping point’ when the development comes along.

Example: education officers could use a ratio that for every 100 new homes, there would be on average 28 new primary school pupils. This would mean that they could ask for contributions towards the cost of educating those 28 pupils, provided that they could show there was no space left in existing facilities. They would also need to show how the money would be spent and that it would achieve good value for money.

AND**(c) Fairly and reasonably related in scale and kind to the development.**

The Planning Inspectorate is increasingly vigilant about this test, particularly because of recent pro-growth policy statements by national government. Requests for contributions must clearly show how they have been calculated. In general, contributions should not be set at a level that would restrict a development coming forward, unless there is a very clear reason to do so.

Example: if a development can be shown to add 10% to the congestion at Junction 21, a request might be made for 10% of the costs to address the problem. You could not ask for the development to pay for 100%, even if the

development created a 'tipping point' that moved the problem from 'bad' to 'impossible' – other sources of funding would need to be found.

2. Deliverability

S106 requests must be for defined and deliverable projects. Most S106 agreements include clauses that allow developers to re-claim the money if it is not spent within a set time period, normally five years.

Aside from the regulations, projects that cannot demonstrate a reasonable prospect of deliverability are likely to be given a lower prioritisation by North Somerset Council as by putting funding towards such a scheme, it may effectively take money away from other projects that could be delivered.

This does not mean that schemes have to be fully funded and ready to deliver at the point of the S106 agreement – however those making the request should be able to show how delivery will be achieved and in particular how they anticipate that any remaining funding gap will be met.

You should also be able to show that requests are sustainable, e.g. that mechanisms are in place to ensure funding and support for the long-term management and maintenance of the infrastructure or service (for example, if it is a new sports pitch – how much is it going to cost to maintain it, and who is going to pay for that)?

**FORM TO REQUEST A SECTION 106 PLANNING OBLIGATION
(Community requests format)**

The questions here are designed to assess whether S106 requests are compliant with national regulations. If they are not compliant, they are highly likely to be challenged by a developer and the council will not be able to pursue them.

Section 1: Application details <i>To be completed by Development Management officers</i>
Application no:
Case officer & contact number:
Description of development:
Location:
Parish: Yatton
Application status: Decision not made
Other relevant information:
Section 2: Request for S106 obligations <i>To be completed by whoever is making the request– please note that <u>all sections must be completed and that you should be as specific as possible in your answers.</u></i>
<p>1. Summary of request(s):</p> <p>A - To contribute to providing a new burial Ground at Yatton.</p> <p>B – To contribute towards addressing congestion within the centre of Yatton, including the provision of traffic calming and management measures along Yatton High Street and environmental enhancements for pedestrians and cyclists.</p> <p>C – To contribute to providing a footpath/cycleway from Arnolds Way to the station along the old Yatton to Clevedon railway track bed.</p> <p>D – To contribute to providing improved and sustainable public transport for Yatton and Claverham.</p> <p>E – To contribute to providing youth facilities, both capital and revenue, for Yatton.</p> <p>F – To contribute to providing additional health care facilities.</p> <p>G – To make contributions for additional classrooms for junior and infant places in Yatton and Claverham.</p>
2. Reason for Section 106 request:
<p>(a) Please explain the specific problem that this development will cause that you are trying to solve. Give details of any evidence that would support your case, for example, transport or education statistics:</p> <p>A – Current burial capacity will be exhausted within one year. Yatton Parish Council have £50K allocated but the estimated cost of providing this facility will be in excess of £100K.</p> <p>B – At peak times the High Street is heavily congested and traffic calming and management measures need to be introduced. For example, raising the road level at the three pedestrian crossing points would enhance pedestrian safety</p>

and introducing a priority system would help with HGVs trying to pass in the narrow section by the Library. These are only two examples of interventions to improve the High Street traffic flow. In order to provide a comprehensive review a feasibility study should be carried out on traffic flow from Kingston Bridge to Congresbury, including the link from Claverham.

C – The current footpath from Arnolds Way to the station uses existing pavements and is a tortuous route. To reopen the Yatton to Clevedon track bed will provide a direct safe route that will encourage walking and cycling. This will also help reduce the number of additional car journeys that would otherwise be generated by this development.

D – Additional bus services are required in order to properly connect Yatton and Claverham with Bristol, Clevedon and Weston-Super-Mare. These services need to be sustainable if residents are to have enough confidence to look for employment, leisure and recreational opportunities within their communities and outlying districts.

E - The increase in young people generated by a development of this size outside the settlement boundary that is isolated from the centrally located amenities can lead to disaffected youth and in turn anti-social behaviour if there are not enough activities to engage in. The provision of funding for youth provision within existing buildings in the community would mitigate the negative impacts described. Provision of outreach facilities at Northend is required for both social and sporting activities and provision of additional green space is essential.

F- The increase in resident numbers using the surgery is a cause of great concern as it affects everyone. The doctor's surgery is currently stretched, with long appointment waiting times and no scope to extend their building and only on street parking at the current location. It also serves the neighbouring village of Congresbury (also a service village), should there be any additional large scale development in either one or both villages the surgery would find maintaining a satisfactory level of service for residents impossible. In other counties i.e. Cornwall, community transport is provided very successfully to help residents with transport to surgeries. The new Yatton development is located on the very outskirts of the Parish and a community transport facility would firstly give access to health services for the new residents and assist others who have transport difficulties in attending the surgery without adding to the existing parking problems. The position regarding the facilities can only be progressed through NHS properties. S106 contributions from all the major developments in and around Yatton should provide an element of support for the medical practice as each will have an impact on the service.

G – North Somerset Council's pupil projections predict that each 100 new homes will generate 28 primary school children. This development will introduce a further 56 primary school children that equates to the need to provide a further 2 in No classrooms. This will still be below the minimum number of pupils needed to justify the new school proposed for this site. The three applications for a total of 520 new homes generate the need for a further

4 new classrooms at the existing school sites. This will produce an unacceptable burden on the existing Yatton and Claverham schools especially with the increase in traffic in Stowey Road, Bishops Road and the High Street.

(b) Please explain how your request will address the problem you have identified. What would the consequences (short-/medium-/long-term) be if the request is not granted?

A – Provision of a new burial ground is essential as this development will increase the population of Yatton by approximately 1000 people. Without this facility the Parish will be unable to bury its dead.

B – There is a recognised need to address congestion within the centre of Yatton, as well as provide traffic management measures and environmental enhancements for non-motorised user access. Access to the precinct needs to be improved in order to maximise this valuable asset. Match funding with the private owners of the precinct to enhance the centre of the village will help to redevelop the currently run down facility. The raised crossings will limit the speed of the traffic and the prioritised system should reduce the number of near misses as HGVs mount the pavement in order to pass other HGVs. Without this the risk of a serious or fatal accident is significantly increased.

C – Direct access to the station and to the Strawberry Line will encourage people from the new development to use sustainable transport methods to access the village amenities instead of adding to the congestion on the High Street. It will also provide the missing link between Kingston Bridge and the Strawberry Line. Without it cars will be used to access the village.

D – Yatton and Claverham has a higher than average elderly population that are reliant on public transport to access facilities in Yatton and beyond. Funding to support services has been dramatically reduced in the past few years and the area has been left with a fragmented service that requires public subsidy in order to work. If this is not provided the elderly will become more isolated and this has the potential to put a greater burden on the NHS and NSC.

E – The Youth Centre requires a substantial refurbishment in order to remain open. There is no other suitable venue in the area that can be used for this purpose and the additional number of young people that this development will generate will require this facility. There is also a lack of facilities and green space at North End that need to be addressed in order to provide for the growing numbers of children and young people that will be concentrated in this area. Yatton Parish Council currently fund a part time Youth Worker and this has proved useful with a reduction in youth associated problems. The additional numbers of children and young people concentrated at North End will require additional outreach facilities in order to provide a balanced service. Without these facilities youth associated problems will re-emerge and this will reduce the community cohesion that has been built up over the past few years.

F – Recent submissions by NHS England in relation to Weston villages

developments quote a standard requiring one new GP per 1,700 patients. Bloor 1 and 2 developments, Hallam at North End and Gladman at Claverham will provide in excess of 1,700 potential patients for the medical practice therefore provision for a contribution should be included. Provision of community based transport for people without access to private transport is essential in order to provide access to medical and other facilities in Yatton. This development is too far from the current medical facility for people with disabilities to access them. Without community based transport a greater burden will be placed on the emergency services.

G – If increased pupil space is not provided within the Parish the consequence will be increased vehicle movements as children leave to attend schools where there is space. Integration of children and adults into a community is essential if a cohesive society is to be maintained. The school is the starting point for many people to mix with others in a community and this has wider benefits both socially and economically for the Parish. In order to preserve this it is essential that the land earmarked for a new school proposed as a part of this development at Northend is delivered, so that the new school can be built and staffed to relieve overcrowding at the existing local schools.

(c) Are there any other ways in which this problem might be solved? Please give details and explain why other options have been ruled out:

A – NO

B - This not a problem that can be fully solved as such, however there may be other options to improve the situation and Parish Council have suggested ways they consider may help relieve the congestion and improve safety in the High Street. They would welcome to any other possible options that would alleviate a situation that will be set to get significantly worse should developments across the district come forward.

C & D – Both work hand in hand with B in that they all contribute towards alleviating the problem of safety and congestion in the High Street.

E - No

F - No

G - No

3. Details of request:

(a) What are you requesting? Please be as specific as possible.

e.g.

(i) Financial contribution(s): how much do you need and how has that been calculated?

(ii) Land contribution(s): how much is needed and where does it need to be (e.g. near a main road / in a quiet location / highly visible etc)?

(iii) Works-in-kind (e.g. something that the developer would build): please give detailed requirements of what is needed and where.

(iv) Other: please provide as much detail as possible.

A (i) Costs indicated indicate under 2 (a)A – (ii) The land for the burial ground is owned by NSC and located on land to the rear of properties on Mendip Road and adjacent to the Parish Council's allotments. There is currently a planning application for change of use from agricultural land to land for use as a burial ground and allotments in the planning process. If granted approval

and NSC agree to give the land for this use then this project would require drainage works, ground works and a car park and a contribution either financial or by agreement to undertake any of the work elements would greatly assist in bringing this essential facility forward. The more detailed requirements of work will materialise through the planning process and this will enable costings to be fully evaluated.

B (i) NSC to assess (ii) NSC to assess. (iii) NSC to assess (iv) NSC to assess.

C (i) NSC to assess (ii) NSC to assess. (iii) NSC to assess (iv) NSC to assess.

D (i) NSC to assess (ii) NSC to assess. (iii) NSC to assess (iv) NSC to assess.

E - (i) NSC to assess (ii) & (iii) The premises already exist it would be a case of assessing the building to ascertain work required either through financial contribution or through the developers resources in providing direct building improvements. (iv) NSC to assess if necessary.

F - (i) This maybe a joint negotiation between NSC, NHS England and developers. (ii) NSC to assess. (iii) NSC to assess (iv) NSC to assess.

G - (i) NSC to assess (ii) NSC to assess. (iii) NSC to assess (iv) NSC to assess.

(c) When is the request needed (this would normally be a trigger related to the build-out of the development, e.g. a certain number of houses occupied)? Please give reasons for the proposed timing:

- A – Level 2
- B – Level 1
- C – Level 2
- D – Level 2
- E – Level 2
- F - Level 1
- G – Level 1

5. Support for the proposal:

(a) Has this request been discussed with the developer? If so, please provide a summary of the discussions and the developer's response:

No. The Parish Council has not had discussions with the developer.

(b) Does the request have support from any of the following:

- North Somerset Council?**
- Your local Parish Council?**
- Any other local organisation?**

If so, please give details of discussions to date and the level of support offered (for example, any formal votes of support)?

A – The Parish Council has worked in partnership with NSC officers on aspects of the project to date.

B – The Parish Council & PACT and in the past for example when the crossing was being discussed by the station there was a great deal of support from parents and there is no doubt that any improvements to pedestrian safety in the future would always have a high level of local support.

C – The Parish Council, PACT, Sustrans.

D – The Parish Council.

E – The Parish Council.

F - The Parish Council, Yeo Vale Medical Practice.

G – NSC Education, Yatton United Schools, Yatton Parish Council

6. Long-term sustainability:

Please give details of how the project or service requested would be sustained in the long-term? e.g. who will manage it, how will it be funded?

A - The Parish Council would manage/maintain the burial ground.

B – NSC

C - The Strawberry Line Management Committee with possibly grants from NSC, the Parish Council or other organisations.

D – NSC

E - ?

F – NHS England, Yeo Vale Medical Practice.

G – NSC Education, Yatton United Schools.

7. Any other information:

Please use this space to add any further information you think relevant:

