



Department for
Communities and
Local Government

Section 106 Planning Obligations – speeding up negotiations

Student accommodation and affordable housing
contributions

Consultation

Consultation questions – response form

We are seeking your views to the following questions on the proposals to speed up section 106 negotiations and on student accommodation.

How to respond:

The closing date for responses is 19 March 2015.

Responses should be sent to: planning.consultation@communities.gsi.gov.uk

Written responses may be sent to:

Section 106 Consultation
Department for Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4DF

About you

i) Your details:

Name: Tony Pierce

Position: Development Control Manager (Interim)

Name of organisation: South Cambridgeshire District Council

Address: South Cambridgeshire Hall, Cambourne Business Park, Cambourne, Cambridge, CB23 6EA

Email: tony.pierce@scambs.gov.uk

Telephone number: 01954 713165

ii) Are the views expressed on this consultation an official response from the organisation you represent or your own personal views?

Organisational response

iii) Please tick the box which best describes you or your organisation:

District Council

iv) What is your main area of expertise or interest in this work?

Planner

Would you be happy for us to contact you again in relation to this questionnaire?

Yes

v) Questions

Please refer to the relevant parts of the consultation document for narrative relating to each question.

Question 1: Do you agree that Section 106 negotiations represent a significant source of delay within the planning application process?

Yes

It is a misconception that the delay in completing a planning obligation rests entirely at the door of the Local Planning Authority.

There are many (practical) measures that could be taken to ensure that section 106 agreements do not unnecessarily delay the decision making process that could usefully be explored by CLG.

Common reasons experienced by this Council are as follows:

- (i) The applicant not engaging in proper community engagement or seeking pre-application advice that would help determine the heads of terms
- (ii) The applicant being unwilling to submit a heads of terms alongside the planning application, including land registry details
- (iii) The time period within which consultation responses are received
- (iv) The requirement for multiple signatories to the agreement, including mortgagees
- (v) Land being unregistered
- (vi) The issue of development unviability being raised at a later point in the application process, or being raised but with insufficient information for the Council to properly assess the claims

Question 2: Do you agree that failure to agree or complete Section 106 agreements are common reasons for seeking extra time to determine a planning application?

Yes

Question 3: Do you agree that the current legal framework does not provide effective mechanisms for resolving Section 106 delays and disputes in a timely manner?

No

Question 4: Do you agree that legislative change is required to bring about a significant reduction in the delays associated with negotiating Section 106 agreements?

No

Question 5: Do you agree that any future dispute resolution mechanism should be available where Section 106 negotiations breach statutory or agreed timescales?

No

Question 6: Do you agree that a solution involving an automatic or deemed agreement after set timescales would be unworkable in practice?

Question 7: Could submission of a draft Section 106 agreement or unilateral agreement during the negotiation process be a requirement of being able to seek dispute resolution where statutory or agreed timescales are breached?

Question 8: Do you agree any dispute resolution mechanism would need to be binding on the parties involved?

Question 9: Which bodies or appointed persons would be suitable to provide the dispute resolution service?

Question 10: How long should the process take?

Question 11: Do you agree that the body offering Section 106 dispute resolution should be able to charge a fee to cover the cost of providing the service?

Question 12: Should all types of planning application have recourse to Section 106 dispute resolution?

Question 13: Do you consider that any dispute mechanism would need to also involve the determination of the related planning application?

Question 14: Are there any ways in which this could be done where only the Section 106 agreement is the subject of the resolution mechanism?

Question 15: To what extent do you consider that the requirement to provide affordable housing contributions acts as a barrier to development providing dedicated student accommodation?

This Council does not secure affordable housing on schemes that provide dedicated student accommodation.