

Affordable Housing Information for landowners, builders and developers:

Guide to Section 106 delivery of Affordable Homes

What are Housing Section 106 Agreements?

Section 106 (S106) of the Town and Country Planning Act 1990, introduced S106 agreements to our planning system. This allows Doncaster Council, as the Local Planning Authority, to enter into a legally-binding agreement or planning obligation with a landowner in association with the granting of planning permission.

These agreements are a way of delivering or addressing matters that are necessary to make a development acceptable in planning terms. They are used to support the provision of services and infrastructure, such as highways, recreational facilities, education, health and affordable housing. The scope of these agreements is laid out in the Government's Circular 05/2005.

Matters agreed as part of a S106 agreement must be:

- Relevant to planning
- Necessary to make the proposed development acceptable in planning terms
- Directly related to the proposed development
- Fairly and reasonable related in scale and kind to the proposed development
- Reasonable in all other respects

A Councils approach to securing benefits through the S106 process should be grounded in evidence -based policy.

When would a landowner, builder or developer need to enter into a S106 Agreement?

Information can be made available in other formats such as Braille or Audio Tape on request. If you know someone who may need this service, please contact a member of staff for more information or if you need any other help or advice.

The Council normally requires a S106 Agreement for sites where 15 or more dwellings are proposed. In Doncaster, the housing obligation of the S106 Agreement requires that 26% of the new housing on the site must be affordable.

Affordable housing is housing that allows people to access housing at a cost below normal market rates. It must comply with the definition in Appendix 2 of the NPPF however generally it can include:

- housing let at an affordable rent by a Housing Association
- housing built for shared ownership
- housing for low cost home ownership
- Other types of affordable housing exist, but they all have the same general aim.

(A note on the definitions is at the end of this document.)

Do sites with fewer than 15 units of housing need S106 Agreements?

Sometimes a builder might propose to build fewer than 15 units of housing on a site that could reasonably be expected to accommodate 15 or more units. Where this occurs, the builder may be required to build at a higher density. Similarly a builder could put forward proposals to develop only part of a larger site, with fewer than 15 units. In this situation, the Council might take the view that this is one phase of a larger site. The Council could then require the builder to build a proportion of the affordable housing that the entire site would yield on that first part.

How does a builder or developer get advice on how to meet S106 Requirements?

Anyone planning to build new housing requires planning permission and to do this they would normally contact the Council's Development Management Team. The Development Management Team will work with the Housing Investment Team who have responsibility for affordable housing provision in Doncaster and will provide advice on:

- The number and type of housing that could be built to meet the S106 requirement
- When in the building phase the affordable housing would need to be delivered
- Potential Housing Associations that you could work with to develop affordable housing
- Other ways of meeting your affordable housing requirement

How will a builder or developer be paid for providing Affordable Housing?

The housing will normally be sold to a Housing Association or other Registered Provider at a price below open market value (OMV), usually at a discount and typically in the region of

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35%. However the amount a builder would be paid would depend upon the type of housing, size, local market prices and other factors

Does Affordable Housing always need to be provided on site?

It is important that the requirement to produce affordable housing does not prevent homes from being built. Where the developer believes this would be the case, the developer can opt for a Site Viability Assessment. This is an independent process that looks at the whole development and building costs. It includes reasonable estimates of things such as:

- Land value
- Build costs
- Infrastructure costs (for example roads and drainage)
- Professional fees
- Income from sale of the homes
- Marketing costs
- Other costs associated with the development
- Profit

There are various tools available that can help developers produce a Site Viability Assessment. Some of these are free and others require a payment and can be found on the Internet however the Council prefer developers to submit viability information using the Homes and Communities Agency (HCA) Appraisal Tool. The Site Viability Assessment will help to show whether the affordable housing requirement would make the proposed development uneconomic. Where this is the case, the Council may consider accepting:

- A lower percentage of affordable housing
- Allowing the affordable housing to be delivered in later phases of the development
- Accepting a commuted sum (see below).

What is a Commuted sum?

A commuted sum is a payment made to the Council as an alternative to affordable housing on-site. The Council will consider a commuted sum where this would assist the viability of a development and deliver more affordable homes than on-site provision.

The Council could use the commuted sum to help re-use empty houses for affordable housing, mortgage rescue support along with assisting Housing Associations with development. More information is available in Policy 12 of the Local Development Framework Core Strategy which is available on the Council's Website.

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In the current climate many Housing Associations are unable to fund the acquisition of homes from developers. Providing the developer satisfies the conditions of the S106 with appropriate evidence, the Council may accept a commuted sum in lieu of on-site provision.

The S106 agreements are written to allow for such circumstances and include a formula for calculating the payment which will in effect be at least equal in cost to the developer of providing the housing on-site.

How does the Council decide what type of affordable housing is required?

The Council's plans to meet housing and other development needs in the Borough are contained in the [Local Development Framework Core Strategy](#). To understand the overall housing need in the Borough, the Core Strategy uses information from the Strategic Housing Market Area Assessment (SHMAA). In 2012, a new SHMAA was produced which also provides information about the numbers and type of affordable housing that is needed in future years.

Further information on the Council's overall priorities and plans for housing are contained in the [Housing Strategy](#). The Housing Strategy explains how the Council and its partners will meet these priorities over a five year period.

Definitions of affordable housing for the purposes of S106 and planning agreements (Appendix 2 of the National Planning Policy Framework)

Affordable housing includes:

Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility for affordable housing is determined with regard to local incomes and local house prices. Affordable housing should include provision for the home to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision.

Affordable rented housing is:

Let by Local Authorities (the Council) or private Registered Providers of social housing to households who are eligible for social rented housing.

Affordable rent is:

Subject to rent controls that require a rent of no more than 80% of the local market rent. (Including where applicable, service charges)

Intermediate Housing is:

Homes for sale and rent provided at a cost above social rent but below market levels, subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared equity and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.

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Social rented housing is:

Owned by Local Authorities (Council) and private Registered Providers (as defined in Section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the Local Authority or with the Homes and Communities Agency.

(Homes that do not meet the above definition of affordable housing, such as “low cost market” housing may not be considered as affordable housing for planning purposes.)

For more information contact:

Email: tsi@doncaster.gov.uk

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