

# Woodberry Down

## WDCO Board (S106 Obligations)

17<sup>th</sup> April 2025





# Introduction

The presentation has been prepared, following a request from members, to provide the WDCO Board with an understanding of how S106 agreements work and how the contributions are calculated.



# What is it?

A Section 106 (S106) agreement secures additional obligations from a developer deemed necessary to mitigate the impacts of a development. It is an agreement between the developer and the council.

It's called "Section 106" because that's the part of the law (the Town and Country Planning Act 1990) that allows councils to ask for it.

They set out the terms binding the developer to *provide, facilitate or fund* the provision of infrastructure, services or other measures.

The agreement may relate to measures *on or off site* and may restrict development; for example, we cannot start until we have an employment and training programme in place.

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## How are they used?

A planning contribution made under S106 of the Act, can only be used to:

- **Control how the land is used or developed** – for example, stopping certain types of uses or requiring green space.
- **Make the developer do certain things** – like provide affordable housing or a play area.
- **Ask the developer to pay money** – either in one payment or over time, to help fund things like schools, roads, or local services

# ‘The Tests’

‘The Tests’ (CIL Reg 122) are used to ensure that S106 agreements are ‘fair and reasonable’ for all parties involved.

CIL Regulation 122 makes clear that obligations **must meet all** of the following ‘tests’ in order to be included in an agreement:

1. necessary to make the development acceptable in planning terms;
2. directly related to the development; and
3. fairly and reasonably related in scale and kind to the development.

Obligations are discussed at length by the developer and council prior to being included in the S106 agreement.

# How they are calculated

In Hackney, the Council has developed a Planning Contributions SPD (2020), that has been prepared against the Local Plan (LP33).

This identifies the type of contribution that a developer could be expected to make. A number of these contributions are formula driven, typically based on aspects such as square metres or the number of units.



# How they are calculated

Several factors determine the specific obligations:

- **Size and type of development:** Larger developments typically have greater impacts and thus may incur higher obligations.
- **Location:** Different areas within Hackney may have varying needs and priorities, affecting the type and amount of contributions required.
- **Viability:** The Council considers the financial viability of a development to ensure that obligations are fair and do not hinder the project's feasibility.



# Some Examples

**Affordable Housing:** Requiring a certain percentage of new homes to be affordable for residents.

**Infrastructure Improvements:** Securing contributions towards road upgrades, public transport improvements, or school expansions.

**Environmental Measures:** Implementing measures to protect local ecosystems, manage water resources, or enhance biodiversity.

**Local Employment and Training:** Promoting local employment and training opportunities for residents.

**Restrictions on Land Use:** Imposing restrictions on how the land can be used, for example, limiting occupancy to people with a local connection.



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- **£23,964,843** committed to date (Phases 1-4) Incl.
  - **£8.3m** for SSR Improvements
  - **£2.8m** for Phase 4
- Majority of obligations are '**indexed linked**' so the figure will increase with inflation until it has been paid
- LB Hackney have a **S106 Monitoring Team** which monitor the S106 agreement and ensure obligations are complied with/paid in a timely manner.