

## Section 106 Spending Guidance Synopsis

This guide is meant to be a guide on the 'do's and don'ts', parameters of how Section 106 contributions can be spent. Guidance on obtaining access to the triggers on how they can be spent and who the best section/person within Milton Keynes Council is to liaise with to discuss to ensure compliance with Legislation, Local departmental expectations, Borough Council Policy (SPGs, SPDs etc

A better relationship with more knowledge to hand can only be beneficial to all, hence this guideline of 'do's and don'ts' and possibilities. This will hopefully allow the Parish Council's and the Town Council's to become more self-managing.

Section 106 Agreements can be viewed in **Public Access** using the **planning application number**, as the reference, on the Council's website ([www.milton-keynes.gov.uk](http://www.milton-keynes.gov.uk))

Once on the Council's website:

- |                  |   |
|------------------|---|
| Select           | <b>Planning and Building</b>  |
| Then             | <b>Planning: Apply, Pay, View</b>   |
| Then             | <b>View and Comment on Planning Applications</b>  |
| Then             | <b>Access planning applications online</b><br>View, object and comment on planning applications   |
| And lastly under | <b>Access Planning Applications you will see</b><br>•Find an application using a <b>simple search</b> , advanced search or map search<br>The words <b>simple search</b> are a greeny/blue and represent a link to the Simple Search box in Public Access – Enter the Planning Reference here – the Section 106 is generally on the last page unless an Appeal then it will be just before the Appeal documents or within the Appeal documents |

Should you wish to view any bookmarking in the document(s) please save the document as a pdf to your computer as this will enable them to be viewed, if present and as a general rule; they are!

### The NPPF sums it up beautifully:

Planning conditions and obligations

54. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

55. Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification<sup>23</sup>.

56. Planning obligations must only be sought where they meet all of the following tests<sup>24</sup>:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

57. Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.

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<sup>23</sup> When in force, sections 100ZA(4-6) of the Town and Country Planning Act 1990 will require the applicant's written agreement to the terms of a pre-commencement condition, unless prescribed circumstances apply.

<sup>24</sup> Set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

**Policy & Guidance are key to ensure the above. The following is meant to inform the Departmental guidelines in conjunction with contributions.**

Planning obligations assist in mitigating the impact of unacceptable development to mitigate the impact of growth and make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind.

Contributions cannot be used to remedy existing deficiencies and in that light, the Section 106 Agreements, prior to and at the time of creation consider the consultation responses and the needs of the development to make it acceptable in planning terms. Each contribution either refers to a specific use and/or refers to the SPG in reference to the particular contribution thereby setting out the restrictions and the intent of how it can be used. They are to fund projects which meet the specification outlined in the Section 106 agreement.

The contributions usually have to be spent within a specified period of which is set out in the Section 106 Agreement. Please consider this when considering projects so as to ensure the spend of the funds a substantial amount of time prior to expiry.

If agreement is reached, a Release Form and Funding Agreement will need to be done. They set out the parameters for ensuring the spend is in line with the Section 106 Agreement and Legislation and how and when accounting will need to be presented.

Contribution		Person to Liaise with
Early Years, Primary School, Secondary School and Post-16	<p>For Early Years, Primary School, Secondary School and Post-16 Section 106 contributions, they are generally secured in order to provide additional places within the locality of the new development in order to provide the new pupils generated with a local education place. The majority of Section 106 contributions are committed to deliver the capital projects identified within the MKC School Place Planning Forward View guidance document.</p> <p>Should a request for education Section 106 contributions be submitted, they will need to be complementary to any planned capital projects in the specified locality and in agreement with the definitions specified within the Section 106 contract.</p>	<p>Mark Halsall</p> <p><a href="mailto:Mark.Halsall@Milton-Keynes.gov.uk">Mark.Halsall@Milton-Keynes.gov.uk</a></p>
Public Art Public Art, Social & Cultural	<p>Within Milton Keynes' Creative and Cultural Strategy, Public Art is highlighted as an intrinsic and important part of the city's cultural DNA. The city recognises the value and significance of its public art collection and plans for its growth and development in the future, where new public art commissions will celebrate the individuality, diversity and vibrancy of the city and its communities.</p> <p>Public Art projects and programmes will deliver the ambitions and aspirations outlined within the Creative and Cultural Strategy at a local, regional, national and international level. It</p>	<p>Louise Izod and/or Fiona Boundy</p> <p><a href="mailto:arts@Milton-Keynes.gov.uk">arts@Milton-Keynes.gov.uk</a></p>

	<p>plays an important role in successful place-making, celebrating and enhancing the character and visual qualities of Milton Keynes; enriching the environment and improving the overall quality of the public realm, whilst providing positive opportunities for social cohesion and community development.</p> <p>Milton Keynes' Public Art Commissioning Policy outlines an approach which invites artists to engage with people, place and context through a variety of approaches and mediums such as:</p> <ul style="list-style-type: none"> <li>▪ Large-scale permanent artworks such as site specific sculpture, installations and public realm landscaping.</li> <li>▪ A temporary work such as performance, time based work, or sound installation;</li> <li>▪ Intrinsically linked education programmes such as artist talks and artist-led community engagement or school projects;</li> </ul> <p>Any project that requests the above funding will need to consider and demonstrate the following:</p> <ul style="list-style-type: none"> <li>• That advice has been sought and provided by the MKC Public Art Specialist and they are in support of the proposal.</li> <li>• How the proposal delivers ambitions and aspirations within the Creative and Cultural Strategy – specifically against the Delivery Framework and in accordance with MK's Public Art Commissioning Policy.</li> <li>• The anticipated level of cultural impact locally, regionally, nationally and internationally that the proposal will attract – in accordance with budgetary thresholds, as outlined in the Public Art Commissioning Policy.</li> <li>• Identification of match-funding opportunities.</li> </ul>	
<p>Heritage – Museums &amp; Archives</p> <p>Public Art, Social &amp; Cultural</p>	<p>Milton Keynes is internationally renowned as a 'designed city' on an ambition and scale unique in the UK. It differs from other new towns with a successful 'patchwork' blend of the new with historic town, village and landscape. This composite heritage identity, blends with people and cultures from across the world who make Milton Keynes their home, bring their heritage with them and make 'MK'</p>	<p>Shane Downer</p> <p><a href="mailto:Shane.Downer@Milton-Keynes.gov.uk">Shane.Downer@Milton-Keynes.gov.uk</a></p>

	<p>the distinct place it is.</p> <p>Museums and Archive are vital in capturing, interpreting, protecting and conserving our heritage of place and the people’s stories that sit alongside them. Through learning, outreach and engagement, our shared heritage of artefacts, documents and collections are made accessible for residents and visitors. They are particularly important as Milton Keynes builds on its 50<sup>th</sup> birthday year to ensure that in the growth and regeneration to follow, that wealth of heritage of the first fifty years is not lost.</p> <p>Any project that requests the above funding will need to meet the following requirements:</p> <ul style="list-style-type: none"> <li>• The organisation benefitting from the funding <u>must</u> be an Accredited Museum or Archive organisation <u>or</u> can demonstrate formally ‘Working towards Accreditation.’ This will require a letter to that effect from the appropriate Museum Development Officer or Archives Engagement Manager who are responsible for National Standards laid down by Arts Council and The National Archives respectively.</li> <li>• With capital and large-scale projects, there is an expectation that the applicant organisation will have discussed their project with the Heritage Lottery Fund and/or Arts Council to maximise regional and national investment into the project and bring added value to Section106 funds. The Heritage Officer for MKC can advise on contacts and local requirements</li> <li>• Any CMK Social and Cultural Section106 will be used to support the composite heritage identity of place and people referred to above. Priority will be given to projects that lever in funds and which work with other cultural areas (public art, libraries).</li> </ul>	
Library	Library contributions are secured under Policy PO4 and any related expenditure needs to comply with this policy, Section 106 terms and Sharing Responsibility for Libraries Strategy 2015. MKC Library Officers are available to	Helen Bowlt <a href="mailto:Helen.Bowlt@Milton-Keynes.gov.uk">Helen.Bowlt@Milton-Keynes.gov.uk</a>

	offer advice and guidance on this matter and assist partners with developing appropriate projects for their libraries.	
<p>Landscape Services</p> <p>District Park Local Parks Neighbourhood Local Play Play Areas Public Open Space Offsite Open Space</p> <p>&amp; if applicable, their Maintenance Contribution and sometimes corresponding commuted sums</p>	<p>One of the main characteristics of the planning and development of Milton Keynes is the high quality of its landscape; this was at the heart of the Master Plan goal of “an attractive city”. The park system provides more than an attractive amenity space; the linear park network provides connectivity for people, wildlife and hydrology. The wider benefits of green and open spaces, such as health and wellbeing are nationally recognised by government and a host of national organisations.</p> <p>The generous provision of public open spaces in Milton Keynes is responsible in no small way for its character and it is a fundamental component of what makes it the place to do business and live in. The citizens value their public open space but condition or location may prevent them from visiting them more often. However, the plan recognised that urban conurbations need to be flexible and adaptive to change and this includes the public open space network</p> <p>Any project that requests the above funding will need to demonstrate:</p> <ul style="list-style-type: none"> <li>• The project has been discussed with officers from Public Realm and other relevant departments i.e. Planning to ensure the proposals are in line with play, open space and development policies</li> <li>• The requesting organisation manages and owns the land the project will be developed upon or is working in partnership with the land owner.</li> <li>• The project is sustainable in terms of management, lease (if land not owned) and finance</li> <li>• The project is supported by the community</li> </ul>	<p>Phillip Snell</p> <p><a href="mailto:Phillip.Snell@Milton-Keynes.gov.uk">Phillip.Snell@Milton-Keynes.gov.uk</a></p>
<p>Community Facilities</p> <p>Sports Hall</p> <p>Swimming Pools</p>	<p>Sports, leisure and community facilities are essential parts of infrastructure that enable local people to live physically and socially active lifestyles.</p> <p>There is a direct relationship between participation in physical and social activities</p>	<p>Leisure and Community Team</p> <p><a href="mailto:Leisure.Services@Milton-Keynes.gov.uk">Leisure.Services@Milton-Keynes.gov.uk</a></p>

<p>Playing Fields</p>	<p>and the physical and mental health of Milton Keynes residents.</p> <p>As a fast growing city, the sporting, leisure and community facilities infrastructure in Milton Keynes is heavily dependent upon Section106 contributions.</p> <p>The funding is used to mitigate the impact of development on existing facilities, providing much needed enhancements that enable higher levels of usage.</p> <p>The funding is also used as a contribution towards new facilities (such as community centres, sports halls, or grass pitches) that are required as a result of a new development, when there is a strong demand for a particular amenity, and where there is currently none or a shortfall.</p> <p>If you are interested in using Section106 to a sport, leisure or community facility project, please refer to the Sport and Active Communities Strategy and Playing Pitch Strategy for Milton Keynes for guidance, and contact the Leisure and Community team at the earliest opportunity on 01908 252109.</p>	
<p>Highways</p>		<p>Luciana Smart</p> <p><a href="mailto:Luciana.smart@milton-keynes.gov.uk">Luciana.smart@milton-keynes.gov.uk</a></p>