

S106 Public Open Space (POS) Funding Guidance for Applicants



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2. Introduction and why off-site POS contributions are collected

Central Government and Sport England recognise that Open Space and Sports and Recreational Facilities are essential for the health and wellbeing of the population. Local Planning Authorities are responsible for ensuring that all new housing developments provide a relevant level of Public Open Space (POS), which directly links to the scale of the application. POS is an essential requirement for any application to be deemed acceptable in planning terms and all requirements are listed alongside requirements for Affordable Housing, Highways, Education and Health Services in a legal agreement referred to as the S106 agreement.

In North Devon, Public Open Space provision is required on all planning applications approved for three or more new dwellings. North Devon Council Planning Policy states that where possible developers should provide facilities on the site of their own development to cater for the increased population created by their application. Where this is not possible due to scale or viability, applicants make an off-site funding contribution in lieu of on-site delivery, this funding is used to alleviate the impact of the development by creating new facilities or by building capacity in existing facilities, which ensures the application remains acceptable in planning terms.

North Devon Council is responsible for monitoring on-site POS delivery and distributing off-site POS contributions for new and enhanced public open space and community facilities within a reasonable proximity of the contributing development site to ensure there is capacity for the new population.

For play areas and informal open space improvements these would usually need to be spent within walkable distance. However for built recreational facilities, funds could be used further than the village/parish/ward it is collected where it can be demonstrated the provision is the nearest facility of its kind and within a reasonable proximity that the residents from that development are likely to travel for use. EG swimming pools, sports halls, key sports clubs and community halls.

3. Who can apply for S106 POS Funding?

S106 POS funds can only be spent where there is a guaranteed long-term “open” public usage. “Open” does not always mean free of charge. It is recognised that many community facilities have operational costs to cover to ensure financial sustainability, so it is totally acceptable for facilities that use S106 POS funding to charge for use. “Open” means that any member of public can access the facility if they wish to do so, either free of charge (eg play areas), by pay as you go use/hire (eg leisure centre or community halls) or by joining as a member (eg sports clubs).

Funding is usually used to support the following types of applicant:

- North Devon Council or Parish/Town Council’s who use the funds to deliver facilities on land in their ownership;
- A school with a public use agreement in place to ensure community can access the facilities out of school hours (evenings, weekends and holidays). We cannot fund projects that are for school use only.
- Local sports clubs or community groups who own or lease their own facilities.
- Not-for-profit facility providers who own or lease their own facilities for community access purposes, such as a public leisure centre.
- Housing providers such as North Devon Homes or housing management companies who wish to improve or expand the range of facilities they provide to the public.
- A private landowner who is willing to sell the land or lease/license to one of the above for the purpose of providing a Public Open Space scheme.

4. What facilities can be funded using S106 POS contributions?

S106 POS funding is collected for investment in permanent built community infrastructure (known as capital funding).

The Council actively promotes equality and diversity; and expects applicants to consider the needs of all people when devising their schemes.

The types of provision that can be funded, include:

- Play areas - new or improved play equipment, fixed seating, upgraded play safety surfacing (eg from grass, woodchip or rubber mats to rubber mulch or wet pour), upgraded fencing (eg from post and rail to 1.2m galvanised bow top fencing with self-closing anti-finger-trap access gates).
- Built Recreational Facilities – new or enhanced: sports halls, swimming pools, artificial grass pitches, skate parks, bmx pump tracks, multi-use games areas (MUGA), village halls, community rooms or scout huts.
- Informal open space improvements – eg fixed seating, verandas or footpaths around open space to help accessibility for those with mobility issues or pushchairs (not roadside footpaths or public rights of way – see what we cannot fund section).

- Sports clubs - new or improvements to pavilions, changing rooms, grass pitch provision, new grass drainage systems, viewing areas for sports pitches (not pitch maintenance or maintenance equipment).
- Allotments, orchards or nature reserves (capital installations or land purchase).
- Land purchase for the above type of provision (see also Local Plan Review section).
- Installation of new permanent renewable energy technology such as solar panels, related battery storage or air source heat pumps in community assets such as community halls or changing facilities to support facility providers in reaching the government net zero carbon targets.

5. What cannot be funded using S106 POS funds?

The funding must be used for new or improved provision – not a direct like for like replacement which could be classed as “maintenance or lifecycle costs”.

Funding cannot be used for non-fixed equipment or operational running costs (known as revenue funding).

We cannot fund projects that are for school only use, nor buildings that are dedicated specifically to religious based activities.

We cannot fund standalone public toilets.

Devon County Council also collect S106 funding to support improvements to schools, roads and public right of ways so these cannot be funded by the Public Open Space contribution.

6. The Funding Timeline and Allocation Process

Once a housing development receives planning permission, a S106 legal agreement is drawn up which contains all the S106 commitments for that development, including for Public Open Space. At this stage legislation requires NDC to list the scheme(s) that will be eligible to benefit from an off-site POS contribution.

It can then be many months/years before the contribution is paid to the Council. In some cases the development doesn't even begin. The Council does not receive any funding until a trigger point is reached, these are individual to each application and are listed in the s106 agreement. Sometimes the payment is in advance of housing starting, sometimes it's on a percentage of the houses being occupied. The best way for you to find this out is go to Council's Website and go to the '[Search for applications section](#)'. Type in the planning application number and find the legal agreement, which is usually listed as 'S106 decision' or 'Unilateral Undertaking' (for developments approved on appeal). Public Open Space Schemes and Trigger Points are usually listed as a 'Schedule' towards the end of the document. If you can't find it we can help.

Once funds are banked, District Councillors decide which of the eligible schemes will be funded and to what extent. Ward Members are consulted first on their recommended use of the funds. This recommendation is then considered by Strategy and Resources Committee (S&R). Finally the decision by S&R is ratified by Full Council. All agendas and reports for S&R Committee are advertised and printed approximately a month in advance. Depending on committee and Full Council dates, the process from banking to allocation can be expected to take three months.

Once allocations are approved, North Devon Council provides successful applicants with a funding agreement. Projects cannot start until the funding agreement has been signed by NDC and the applicant. See section below on retrospective funding.

FAQ: We need to deliver the scheme now! Can we start the project before funding is banked and claim the funds when they do come in?

No: S106 funding cannot be paid over retrospectively; as once the facility is built it in effect shows the need for the works have not been created by the population increase from the development that has contributed the funds.

It is important to remember that S106 funding is collected to cater for future population growth as a result of the development – so applications need to be forward thinking. Please carefully consider what investment your facility needs to cater for future demand increases.

Please do not apply for S106 funding if you need the funds immediately.

7. How to apply for S106 Public Open Space Funding

North Devon Council has a very short space of time between when planning permission is granted; and by when eligible scheme(s) need to be provided for the S106 agreement to be completed – sometimes it is only a matter of weeks. It is therefore essential that you regularly update priorities for your neighbourhoods. We recommend parish and town councils include S106 Public Open Space priorities as a standing item on agendas for regular review. If you are a local councillor, parish council, sports club or community group please email richard.slaney@northdevon.gov.uk to request an Expression of Interest Form so that your project can be included on the priority list for future funding.

Pitch sports (football, rugby, cricket and hockey) – your priorities are collected through the NDC Playing Pitch Strategy. A review is currently taking place and your club should have received a questionnaire to complete in March/April 2024. Please use the last section within the questionnaire to outline your future capital investment needs. NB for any pitch sports club applying for S106 POS funding, you must have completed a recent PitchPower Inspection Report to be eligible for S106 POS funding.

8. Match Funding

Applications that provide match funding are looked upon favourably. When organisations who apply are able to provide match funding to any level, it helps stretch the amount of S106 POS funding available to support further local projects and ensures we can provide better outcomes for the community. So please consider your own fund raising options and opportunities.

If you are a Sports Club you can apply to Sport England or National Governing Bodies, such as the Football Association/Football Foundation, RFU or ECB. If you are a community group you can apply to National Lottery Funding.

9. Finding Land and the Importance of the Local Plan

Other than funding, the biggest hurdle to providing new facilities is the availability of land. The Local Plan Review is a great opportunity for Councillors and Officers to identify where land for community facilities could potentially be provided. On larger scale housing developments planning policy can include the requirement to provide an area within land for a certain facility. North Devon Council is about to start a local plan review, so now is a great time to be thinking about land requirements for future community facilities.

If you are a land owner who is willing to sell or lease your land for the purpose of providing public open space projects, we would be delighted to hear from you.

10. Contact Us

If you wish to register a project for future funding or have any questions, please do not hesitate to contact me.

Kind Regards

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