

# Affordable Housing Commuted Sum spending Policy and Procedure

[Tunbridgewells.gov.uk](http://Tunbridgewells.gov.uk)



## Table of Contents

Purpose of Policy .....	2
Commuted Sums .....	2
Affordable Housing .....	3
Scope of s106 Commuted Sums funding usage .....	4
Application for spending Section 106 funding .....	4
Criteria for spending Section 106 funding.....	5
Section 106 Funding Application Approval .....	6
Monitoring & reviewing .....	6

### 1. Purpose of Policy

- 1.1 This policy has been written to provide criteria for officers and Members to follow when deciding how to make the best use of financial contributions paid to the Council in lieu of affordable housing being built by a developer.
- 1.2 It contains guiding principles and a framework to apply when making decisions about spending s106 funding. The aim of the policy is to ensure the Council's affordable housing objectives are met and that the funds have been spent in a way that maximises the provision of affordable housing in the Borough of Tunbridge Wells.

## 2. Commuted Sums

- 2.1 Tunbridge Wells is committed to the development of good quality housing seeking to ensure housing growth is sustainable and genuinely affordable, therefore affordable housing should be included in a development of 10 or more units in order to create and promote mixed communities, as per the Council's affordable housing threshold.
- 2.2 If a developer can provide strong evidence that there are practical reasons why a site is not viable to provide affordable housing as part of a development, in place of on-site provision, the Council will seek a financial contribution to be used towards meeting/enabling local affordable housing needs offsite within the Borough. This sum should be broadly equivalent to the cost of providing affordable housing on-site in line with the Council's affordable housing threshold.
- 2.3 Where a financial contribution for affordable housing is secured via a s106 Agreement, the contribution will be 'ring fenced' and used towards alternative site provision to meet the Council's affordable housing objectives, normally in partnership with a registered provider(s) as Tunbridge Wells Borough Council currently doesn't have the established framework to effectively manage housing stock.

## 3. Affordable Housing

- 3.1 The NPPF Annex 2 defines Affordable Housing as:

*Affordable housing: housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions*

**A) Affordable housing for rent:** *meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable);(b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent)*

**B) Starter homes:** *is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used*

**c) Discounted market sales housing:** *is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households*

**d) Other affordable routes to home ownership:** *is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low-cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision or refunded to Government or the relevant authority specified in the funding agreement."*

- 3.2 The Council reviews the need for affordable housing regularly through the housing register, homelessness count figures, as well as the borough and parish housing needs surveys. This can then be used to provide more specific data regarding the size of properties required as well as key areas which should be targeted. All available data of this kind should be used when a decision is being made on whether s106 funding should be offered.
- 3.3 In some circumstances, section 106s may stipulate that funds that have been secured through commuted sums in a particular area, parish or part of the borough; and thus, may only be utilised to be spent in that particular area.
- 3.4 The council will seek legal clarity on any section 106 legal obligations and criteria set out in planning agreements.

#### 4. Scope of s106 Commuted Sums funding usage:

- 4.1 The Council will use financial commuted sums in a number of ways and will require the flexibility to do so to be reflected in its approach and in the s.106 agreement. Where the contributions are accepted, they will be used to provide an additional affordable housing enabling tool aimed at meeting the housing needs of the Borough. Commuted sums will be earmarked to enable the provision of affordable housing through a variety of means such as;
- 4.1.1 To provide funding for the development of affordable housing at social rent levels in schemes
  - 4.1.2 To subsidise alternative developments to allow for a greater provision of affordable housing at social rent or to create a more favourable mix of social rented properties vs affordable rented/immediate/private rented properties.
  - 4.1.3 To fund extra units of social rent affordable housing units on existing developments.
  - 4.1.4 To contribute towards forward funding/kick-starting affordable housing schemes, funds & strategies in order to facilitate the delivery of affordable housing in conjunction with other sources of funding such as Community Housing Fund or the Local Authority Housing Fund.
  - 4.1.5 To reduce funding gaps for pipeline/current affordable housing schemes.
  - 4.1.6 To assist with works required to bring a void affordable housing property back to a usable standard.
  - 4.1.7 To assist with bringing empty buildings back into use as affordable housing
  - 4.1.8 Secure long-term temporary accommodation, to ease housing needs and facilitate transitions into affordable housing.

## 5. Application for Section 106 Commuted Sum Funding

- 5.1 Registered Providers and private developers can request Section 106 financial funding from the Council.
- 5.2 Request can be made through contact with the affordable housing and enabling officer and the party will need to complete a form which will provide details of the affordable housing they are developing.
- 5.3 Applicants should be able to prove how their development will benefit residents of the borough in housing needs.
- 5.4 Consideration should be given covering set criteria for how the development will assist the Council in meeting its affordable housing targets.
- 5.5 Applications will provide information regarding the sum being requested and the proposed date that properties will be ready for occupation.

## 6. Criteria for Section 106 Funding

- 6.1 Registered Providers and other not-for-profit housing organisations, stakeholders, Community Land Trusts, and Private developers will be eligible to apply for S106 funding.
- 6.2 Applications for section 106 funds will be considered against following the set of criteria:
  - 6.2.1 Completed application for section 106 Funding with clear and concise evidence of planning details.
  - 6.2.2 Costs and timescales are thoroughly researched and are precise, realistic, achievable and measurable.
  - 6.2.3 Other funding is available to meet the total costs of the project.
  - 6.2.4 Sufficient resources for the future maintenance and support for the delivered project.
  - 6.2.5 The project or scheme has or is likely to obtain planning permission.
  - 6.2.6 Meets the council housing objectives.
  - 6.2.7 Meets local housing needs and retains and attracts a working-age population.
  - 6.2.8 Meets Energy efficiency standards and makes progress on reducing the carbon footprint to zero by 2030.
  - 6.2.9 Contributes to other priorities e.g., promoting community projects in the district such as community energy schemes.

## 7. Section 106 Funding Application Approval

- 7.1 Applications requesting a total amount of up to £250,000 of commuted sums; The approval decision to provide commuted sums to support an affordable housing project is that of the Portfolio Holder for Housing.
- 7.2 Applications requesting a total amount over £250,000 of commuted sums; The approval decision to provide commuted sums to support an affordable housing project is to be made by Cabinet.
- 7.3 The spending of s106 funding will be recorded by the Council's Finance team and is made available at request and recorded within infrastructure reports.

## 8. Monitoring & Reviewing

- 8.1 This policy will be reviewed every two years to ensure that payments made in lieu of affordable housing provisions are being put to the best use to further the delivery of affordable housing in TWBC.
- 8.2 The Community Infrastructure Levy (Amendment) (England) Regulations 2019, requires councils to record and publish in the form of Infrastructure report statements the section 106 contributions received, what the contributions were for, and what they have been spent on, in the previous financial year.