



# **Affordable Housing: Spending of Section 106 Affordable Housing Committed Sum**

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## Introduction and Context

To achieve the Council's vision of a 'Stronger economy and stronger communities' we need to work innovatively with partners in the public and private sectors, the voluntary and community sector, and with individuals, families and communities. We must support and enable the achievement of improved community outcomes being bold, creative and efficient.

We want North East Lincolnshire to be seen as an attractive place to live, work, visit and invest. We know that we have significant potential and exciting opportunities for investment and growth in North East Lincolnshire.

The Council's stronger economy / stronger communities priorities are underpinned by a key strategic framework comprising the following:

- health and wellbeing strategy
- economic strategy
- prevention and early intervention strategy
- financial strategy
- safeguarding



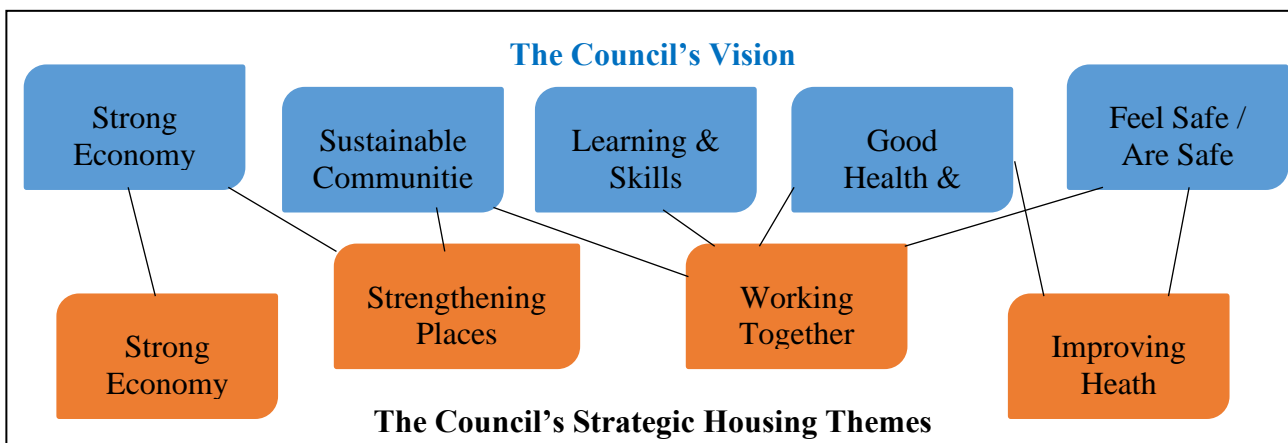
NELC's [outcomes framework](#) is the means by which our priorities will be translated into action and delivered, developed and achieved in conjunction with our partners across sectors. This is intended to drive a culture of evidence-based decision-making that will enable elected members to take informed key decisions, knowing the risks and the opportunities for citizens, communities and businesses. Our commissioning plan will ensure and foster clear links between the outcomes framework and the resources available to achieve them.

The framework, sets out the five high level outcomes that we and our partners aspire to achieve to ensure prosperity and wellbeing for the residents of North East Lincolnshire.

The five outcomes are that all people in North East Lincolnshire will:

- Enjoy and benefit from a strong economy
- Feel safe and are safe
- Enjoy good health and well being
- Benefit from sustainable communities
- Fulfil their potential through skills and learning

This policy contributes to the five elements of the Council Vision by supporting to the Council's four Strategic Housing themes.



The National Planning Policy Framework determines the Planning contributions required on a development, and these are secured through legislation and legal agreements. Affordable Housing contributions are secured in an s.106 agreement. The Local Plan sets out the local s.106 Affordable Housing requirements based on viability by post code area. S.106 Affordable Housing contributions assist the local authority in meeting the aims of the Housing Strategy - *“Increase delivery of new and improved Affordable and Specialist housing, through working effectively with Registered Providers, Homes England and others. Provide effective support to households facing accommodation issues or homelessness.”*

It is expected that developers will provide their Affordable Housing contribution ‘on site’ – that is, they will offer an agreed percentage of the houses built on the site to a Private Registered Provider of Social Housing (housing association) at a price that enables them to provide the property at a Social / Affordable rent, or as a low cost home ownership opportunity. Where this is not possible, usually because the properties are not of a certain type, configuration, location or price that the housing association are able to utilise, then an agreed/calculated sum of money will be transferred to the Council instead. This is known as an s.106 Affordable Housing Commuted Sum and can only be invested by the Council to enable the provision of Affordable Housing within the Borough.

The value of the s106 Affordable Housing Commuted Sum is determined and calculated by deducting the Social Value (the price that a Registered Provider would reasonable pay for the property taking into account their restrictive regulated borrowing) from the Market Value of the property. The difference between the two is the s.106 Affordable Housing Commuted Sum value.

This policy has considered the aims of the Equality Duty, including ensuring that no-one is treated disproportionately or in any way less favourably on the grounds of age, disability, gender reassignment, pregnancy & maternity, race, religion or belief, sex, sexual orientation or marriage & civil partnership.

## **1. Aims of the s.106 Affordable Housing Commuted Sum Policy:**

The aims of the Policy are to evaluate requests for funding against the criteria set by the Council; to make best use of the funds to meet Local Housing Need; to achieve best value for money; to be innovative in the use of the limited funds available. The Council's Strategic Housing Strategy and Local Plan clearly identify the unmet need for Rented Affordable Housing across the Borough.

This document sets out a clear policy for the purpose, use, management and approval for spending s.106 Affordable Housing Commuted Sums. A robust, compliant, consistent and transparent approach for allocating and spending the designated funds: meeting the requirements of State Aid regulations under Services of General Economic Interest (SGEI).

s.106 Affordable Housing Commuted Sums are accepted in exceptional circumstances, when there is a planning requirement for provision of Affordable Housing on a site and the development is unsuitable, unviable or unsustainable for Social Housing residents: as assessed and identified by the NELC Affordable Housing Lead Officer. This payment is accepted in lieu of the building and sale of Affordable Housing to a Private Registered Provider of Social Housing, by a developer on a specific site.

The s.106 Affordable Housing Commuted Sum is secured through a defined legal agreement known as a Section 106 Agreement which includes trigger points, including the stage of the development when cash sums will be paid to the Council, and spending deadlines. This Policy will ensure the Council fulfils its duty and ensure the s.106 Affordable Housing Commuted Sums are spent according to the requirements set out in the relevant s.106 Agreements and Government regulations. If sums remain unspent after an agreed period, normally 10 years, these have to be repaid back to the developer with interest.

The Council is required to hold Section 106 Affordable Housing Commuted Sums in an account ring-fenced for the purpose of enabling the delivery of Affordable Housing within North East Lincolnshire. The funding is made available to help Housing Associations, or other providers of Social Housing by enabling the viability of the purchasing or providing additional Rented Affordable Housing in perpetuity.

The s.106 Affordable Housing Commuted Sum funding will be awarded in the form of an 'Enabling Grant' to the Provider by North East Lincolnshire Council. The decision-making criteria is set out below.

All types of scheme can be submitted for consideration for an Enabling Grant and will be assessed against the criteria outlined in this document, must comply with all s.106 regulations and s.106 agreements and planning policy. For example:

- Schemes which require additional grant funding to enable the viability of delivering a Provider's own New Build Scheme; bridging a shortfall when the organisations' own borrowing and Homes England grant does not fully fund the development
- Off the Shelf purchase of New build properties; bridging a shortfall when the organisations' own borrowing and Homes England grant does not fully fund the purchase

cost.

- A grant required to support and make viable the acquisition and renovation of private market Empty Homes to be provided as Rented Affordable Housing in perpetuity.
- A grant to support the purchase of land and the development of Rented Affordable Housing on that land – subject to planning permission.

## **2. Criteria for qualifying for an Enabling Grant:**

In order to be considered for the allocation of funding from the s.106 Affordable Housing Commuted Sum pot, the Private Registered Provider of Social Housing or other approved housing organisation (for the purposes of this document 'the Provider') will submit their proposal to the Council's Lead Officer for Affordable Housing for consideration, and should the application should clearly demonstrate that:

- Homes England funding has been sought from the Affordable Housing Program, or other appropriate funding applied for
- The scheme will meet Homes England Affordable Housing standards.
- A grant from the s.106 Affordable Housing Commuted Sum pot would enable the delivery of the scheme; and that the scheme would not be deliverable without s.106 Affordable Housing Commuted Sum funding
- The scheme will provide additional Rented Affordable Housing to meet housing needs identified by the Council's Strategic Housing department.
- The property is not acquired through an s.106 Agreement.
- The property is not, nor has previously been, a Social Housing property.

If an older property is acquired for renovation it must be made clear which elements of the purchase and renovation the grant funding is being used to contribute toward the provision of the Rented Affordable Housing; and must ensure that all aspects are compliant with the regulations and s.106 agreements governing the use of the s.106 Affordable Housing Commuted Sum and future use of a Rented Affordable Housing property.

## **3. How requests for funding will be made:**

1. Having met the criteria set out in section 2 of the policy, the Provider will request an Enabling Grant from the Council's Lead Officer for Affordable Housing who will provide an application form.
2. The Council will require evidence of the viability issue to justify the amount of Enabling Grant requested, only, as the applicant's financial position will have undergone rigorous examination when applying to Homes England for Grant Funding. The Enabling Grant application form lists the information required:
  - amount of Provider's capital investment or borrowing,
  - all sources of funding the Provider has received, specifically to support the development, hopes to receive or will be making an application for, and the perceived likely outcomes of this,
  - long term business plan of the Provider relating to the scheme/properties.

#### **4. How requests for Enabling Grant Funding will be considered:**

1. The Affordable Housing Officer will assess the request for an Enabling Grant against the agreed criteria listed in Section 3 of this policy and authorisation will be required by the Assistant Director for Housing, with sanction from the Portfolio Holder for Housing.
2. The PROVIDER must demonstrate that they have pursued other forms of funding before requesting that Council funds be invested, and that the investment of those funds will not reduce the proportion or availability to access other public subsidy available.
3. All of the information detailing the site, number and type of units to be provided, including Affordable Housing units, other sources of funding approached and outcomes, or predicted likely outcomes, of this scheme will be provided to the Affordable Housing Officer.
4. Affordable Housing Lead Officer will make a recommendation to release the funding, in line with internal appraisal requirements.
5. The request for an s.106 Enabling Grant will be approved by the Assistant Director for Housing under delegated authority up to the £500,000 limit set in SGEI State Aid regulation and agreed within this Policy
6. Following approval the PROVIDER will be required to enter into a Grant Funding Agreement with the Council. Funding will be released in line with the conditions in the Grant Funding Agreement.

#### **5. Other considerations:**

1. An open book assessment of the financial plan must be taken by all parties involved, to ensure an open and transparent approach.
2. Where there is more than one application for the Enabling Grant, and all applications meet the criteria in section 3, priority will be given to the application providing best value and bringing the highest benefit to the district, determined by NELC, for example;
  - Scheme's which offer best value for money by clearly demonstrating that they have maximised all other suitable funding sources.
  - Schemes which deliver the type of dwelling identified as a high demand property in short supply, according to Home Choice Lincs,
3. All units will be Rented Affordable Housing and need to be in line with the Council's relevant descriptions and paragraphs regarding the definition of Rented Affordable Housing in the NELC s.106 agreement template, and will be let through the council's choice based lettings scheme (Home Choice Lincs) or through other suitable nominations processes as agreed by NELC.

#### **6. How requests for funding will be confirmed:**

1. The Affordable Housing Officer will inform the applicants of the final decision in writing.
2. The PROVIDER and the Council will enter into a legal agreement to secure the Enabling Grant.

#### **7. Monitoring and Evaluation**

The monitoring process for the spending of the s.106 Affordable Housing Commuted Sum

pot is:

- Payments are received by Planning (ENGIE) who inform the Lead Officer for Affordable Housing that there has been a payment into the s.106 Affordable Housing account.
- The Lead Officer for Affordable Housing informs Planning (ENGIE) of any spending against that account to enable monitoring.
- The Assistant Director of Housing will authorise spending from the s.106 Affordable Housing Commuted Sum account by Officer Decision up to £500,000, in consultation with the Portfolio Holder for Housing, and recorded in an Officer Decision Record (ODR)
- The s.106 Affordable Housing Commuted Sum account is reviewed and audited annually by NELC Finance

## BACKGROUND INFORMATION

Document Purpose	Policy
Author	Amanda Waldron
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Copyright	North East Lincolnshire Council
Impact Assessment (inc E&D) done?	No
Name of Lead Officer undertaking Assessments	Amanda Waldron
IA Action Plan with Recommendations Produced	N/A

## Document History

Date	Amendments made	By Whom (name/job title)	Stakeholders Approval (Name, Job title / Organisation)
01.08.19	New Policy (informal)	A Waldron Affordable Housing Lead Officer	
20.08.20	Revised Policy (formal)	TBC	TBC