



Halton Borough Council  
**SECTION 106  
INFRASTRUCTURE  
STATEMENT  
AUTUMN 2021**



# Halton Borough Council

## **Infrastructure Funding Statement**

**2019-21**

### **1. Introduction**

- 1.1 This Infrastructure Funding Statement (IFS) is an annual public report, which provides a summary of “developer contributions” made and pending during the most recent financial year. In this case between 1<sup>st</sup> April 2019 and 31<sup>st</sup> August 2021. This is Halton’s first statement and has been written in line with government guidance.
- 1.2 Developer Contributions (also known as “s106 agreements” or “Planning Obligations”) are used to secure financial and non-financial contributions (including affordable housing), or other works, to mitigate the impact of new homes and other buildings, which create extra demands on local facilities. For example, improvements to local greenspaces, or meeting the capital costs associated with delivering additional pupil places at a school close to a large development site.
- 1.3 This report (for 2019-21) provides an overview of what s106 agreements are and information about developer contributions (for the year):
- currently held
  - paid to the Council
  - spent
  - entered into, and
  - secured.
- The projects delivered because of developer contributions are also listed.

### **2 Planning Obligations / s106 Agreements**

#### **2.1 What are they?**

- 2.1.1 Planning Obligations / s106 Agreements are legal agreements secured under national planning law<sup>1</sup> and made between local planning authorities and applicants for planning permission (developers). They can also be via a “unilateral undertaking” entered into by a person with an interest in the land without the local planning authority. The government provides guidance about Planning Obligations [here](#).
- 2.1.2 Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms.
- 2.1.3 Developers may be asked to provide contributions for infrastructure in several ways. Halton Borough Council, as the Local Planning Authority (LPA), seeks Planning Obligations from applicants for planning permission where it is not possible to address the unacceptable impacts of a development through a planning condition, such as when a financial contribution is required. To be lawful, obligations secured via a S106 agreement must be:
- Necessary to make the development acceptable in planning terms
  - Directly related to the development, and
  - Fairly and reasonably related in scale and kind to the development

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<sup>1</sup> S106 of the Town and Country Planning Act 1990: <https://www.legislation.gov.uk/ukpga/1990/8/section/106>

2.1.4 Developer Contributions secured via Planning Obligations can be used to deliver the mitigation on the land where planning permission was granted, for example through the provision of affordable housing as part of a larger housing development. Alternatively, they may fund all (or part of) mitigation nearby. For example, a development may part-fund additional pupil places at a local school, which, when combined with other developer contributions will meet the overall capital costs of delivery.

2.1.5 The use of Planning Obligations is governed by the fundamental principle that planning permission may not be bought or sold. Therefore, it is not legitimate for unacceptable development to be permitted because of benefits offered by a developer, which are unrelated to the development under consideration. Similarly, planning obligations should never be used purely as a means of securing a share in the development profits for the local community.

## 2.2 When are Developer Contributions required in Halton?

2.2.1 Halton Council requirements for S106 planning obligations are principally set out in its "Local Plan Core Strategy"<sup>2</sup>,

2.2.2 Separate SPDs for 'Sandymoor in Runcorn', "Widnes Waterfront", and others set-out specific requirements for those locations, to be secured via planning obligations.

## 2.3 Development Viability

2.3.1 The Council's starting-point in discussions with developers is that all new development proposed should fully meet local planning policy, including any requirements identified for developer contributions towards infrastructure – as explained above. However, the Council must base its decision on a planning application on the individual circumstances of each application. This includes a consideration of any evidence submitted by a developer which shows that the delivery of a development would not (or is unlikely to) take place because its viability would be adversely effected by the payment of all (or some of) the developer contributions required.

2.3.2 The Council always robustly challenges viability evidence presented by developers and it has been successful in achieving, through negotiation, increased developer contributions over and above those initially offered by developers. However, developers are not obliged to agree to a planning obligation and in such cases, the Council must ultimately consider whether to refuse planning permission.

2.3.3 Following a refusal of planning permission, a developer has a right of appeal to government. At an appeal the appropriateness and scope of the developer contribution is determined by the Planning Inspector and not Halton Council. More detail can be found at <https://www3.halton.gov.uk/Pages/planning/policyguidance/pdf/evidencebase/viabilitystudy.pdf>

## 2.4 Completed Planning Obligations/ s106 Agreements

2.4.1 Once a Planning Obligations/ s106 Agreement is signed, it is registered in the Local Land Charges Register. Planning obligations are tied to the land and they may be enforced against anyone who originally enters into the agreement and any successor in title unless the agreement specifies otherwise.

- 2.4.2 The requirements of a Planning Obligation/ s106 Agreement come into effect if the planning permission is implemented and any milestones (triggers) set out in the Obligation/Agreement are reached. The S106 registers can be found at the link below, they are updated annually.

<https://www3.halton.gov.uk/Pages/planning/Registers.aspx>

- 2.4.3 The Council's s106 Monitoring Officer proactively monitors the progress of new development to ensure that the requirements of Planning Obligations/ s106 Agreement are met and that the related infrastructure projects (or affordable housing) can be delivered. In the small number of cases where a developer contribution becomes overdue, the s106 Monitoring Officer takes action to ensure its payment.
- 2.4.4 Some Planning Obligations/S106 Agreements require developer contributions not spent within a certain time to be refunded to the developer. The Council aims to ensure that all developer contributions are spent on the projects they were identified for and no refunds were required to be made during the reported year.
- 2.4.5 National regulations permit Councils to charge developers a "monitoring fee" through Planning Obligations / S106 Agreements, to cover the cost of the monitoring and reporting on delivery of that section 106 obligation as described above. The Council does not currently request S106 monitoring fees but intends to begin charging in the future.

### **3 Section 106 Contributions summary**

#### **3.1 S106 monies on hand at the beginning of the reporting year**

The table below highlights that as of the 31 August 2021, a total of £ 2,842,988.74. S106 money was available to fund public open space, highways infrastructure, and environmental projects within the Borough.

Ineos

The Section 106 agreement requires INEOS to pay Halton Council an annual lump sum for every tonne of fuel received and processed known as the 'Environmental Fund'. The Section 106 states the following:

*"Environmental Fund shall be used by the Council to fund environmental matters as may be specified from time to time by the Council within the Borough of Halton for the benefit of its residents generally and which may include measures to improve public transport, highway network improvements, travel plan monitoring, waste recycling and wider community improvements such as landscaping and nature conservation measures".*

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S106 Contributions held as at 31<sup>st</sup> August 2021

<b>Contribution Type</b>	<b>S106 Contributions Held £</b>
Public Open Space	808,008.19
Highways	296,732.65
Ineos	1,698,247.90
<b>Total</b>	<b>2,842,988.74</b>