

Frequently Asked Questions (FAQs) 2016

Section 106 [S106] Concurrent Build Obligations

Q1). What is a S106 obligation and why do I need to complete one?

If you and your neighbour(s) are applying for planning permission to carry out building work on your property (the “development”), the Planning Department may consider that the work will only comply with the requirements of the Local Development Plan if both developments are carried out and completed simultaneously.

This normally means that unless the developments are completed together there will be issues surrounding light and amenity to the neighbour(s). You will be asked to complete a S106 Concurrent Build Obligation. This is a signed agreement that you and your neighbours will build your respective developments at the same time.

Q2). Who are the parties involved in the obligation?

The owner(s) and the mortgagee(s) of each property.

Q3). Why is my mortgagee a party in the obligation?

Your mortgagee must be a party and sign all copies of the obligation. This is to ensure that if either of the properties were re-possessed by the mortgagee, the mortgagees would also be bound to carry out the development work in accordance with the obligation. For example; if one property were to be repossessed their mortgagee could not build the development to that property, without the development to the neighbouring property being built at the same time.

Q4). When should I inform my mortgagee of the development and obligation?

You should inform your mortgagee (if you have one) of the development and the S106 obligation once you have the planning reference numbers and validation dates.

You should contact your mortgagee to find out which department will deal with your S106 obligation. You should also send your mortgagee a copy of the draft obligation so they have time to review the obligation. This will help speed things up when the obligation will need to be signed by your mortgagee. The more time a mortgagee has to prepare the faster the obligation can be completed.

Q5). What is the Council’s role in the obligation?

The Council undertakes the obligation. We act as a neutral third party to make sure the obligation and developments are completed fairly.

Q6). When can the obligation be drafted?

When you have the planning reference numbers and validation dates from the Planning Officer for each of the planning applications.

Q7). What information do I need to supply for the draft obligation?

- The full names of the owner(s) at your address (if you have recently changed name, please provide proof of the change, i.e. changing your surname due to marriage);

- Your address (please do not give the S106 property address if you live elsewhere, i.e. landlords building developments at business properties);
- The name, branch and address of your mortgagee (if you have one); and
- The date of the legal charge between you and your mortgagee (if you have one).

Q8). How much does the obligation cost?

The fee for the S106 obligation is £150 (£75 per property). You should submit the fee with your draft S106 obligation for work to commence on your S106 obligation.

Q9). Are there any extra fees for the obligation?

The Council offers an optional service to collect proof of title from the Land Registry on your behalf to check who has an interest in the property for an additional fee of £6 per property. You or your agent will need to show proof of title if you choose not to use the Council's service; or if your Land is not registered or pending registration with the Land Registry.

Q10). How can I pay for the obligation fees?

There are two ways to make your payment:

1. You can pay by BACS, the account details are: HSBC Bank plc, 31 Chequers Street, St Albans, AL1 3YN, Sort code: 40-40-01, Account number: 71402609, Account holder: St Albans District Council. Please put 'S106 CB [Address]' or as much as possible for your reference.
2. You can pay by cheque. Please send your cheque with the 'S106 CB [Address]' written on the back with a covering letter or note to Legal Department, Legal Democratic and Regulatory Services, St Albans District Council, Civic Offices, St Peters Street, St Albans, Herts, AL1 3JE.

Q11). I have received the engrossed obligation in the post, what do I do next?

You and your neighbour(s) must sign all the copies. You should both sign the plan showing the Red & Blue Land (please do not sign on the S106 site, the scale or the north arrow). You should both sign next to your name in the signature section near the back of the document. Each copy must be signed and witnessed by all parties. It is your responsibility to ensure that each party, including mortgagees, sign the obligations. You cannot witness a signature if you are a party.

When you and your neighbour(s) have done this you should send all the copies to your mortgagees (if you have one). Once the obligations have been signed by all parties they must all be returned to the Legal Department, for the attention of the relevant Legal Officer at St Albans District Council, Civic Centre, St Peter's Street, St Albans AL1 3JE.

Q12). The signed obligations have been sent in the post to the Legal Officer. What happens now?

The Legal Officer will complete the obligation by inserting the date; this will be the S106 date. The Legal Officer will then notify the planning department of a successfully completed obligation and send out copies of the completed obligation to the owners with a covering letter.

Once the obligation has been completed if you have any queries on your building works you will have to contact your Planning Officer or the Planning Department.