

APPENDIX C

to Customer Advice Note 1

London Borough of Croydon **Planning Obligations Strategy**

12/2009

If you have any queries regarding this document, please contact us:

Address: Development Management Team
Planning Regeneration and Conservation Department,
Taberner House, Park Lane, Croydon, CR9 1JT

Telephone: 020 8726 6800

Website: www.croydon.gov.uk

Email: planning.control@croydon.gov.uk

WHAT ARE PLANNING OBLIGATIONS?

- 1.1 The principal aim of the planning system is to deliver high quality, well-designed sustainable development. It is important that new development meets the council's key social, environmental and economic objectives. There is also a challenge to ensure that the necessary social infrastructure and community facilities keep pace with the level of new development coming forward across the Borough.
- 1.2 Planning legislation allows for the negotiation of planning obligations, known as Section 106 agreements, between developers (or any party with an interest in land) and the Local Planning Authority, to make development acceptable that would otherwise be unacceptable in planning terms. Planning obligations can only be used to prescribe the nature of a development, compensate for loss or damage caused by a development or mitigate a development's impact.
- 1.3 Government guidance in Circular 05/05 sets out some key tests and states planning obligations must be:
 - relevant to planning;
 - necessary to make the proposed development acceptable in planning terms;
 - directly related to the proposed development;
 - fairly and reasonably related in scale and kind to the proposed development; and
 - reasonable in all other respects.

WHAT SORT OF PLANNING OBLIGATIONS WILL WE BE SEEKING?

- 1.4 Virtually all major and many other developments in Croydon will be subject to a Section 106 agreement to secure planning obligations. The nature of planning obligations will be assessed on a case-by-case basis and so will vary between developments. We will always aim to take a consistent approach and ensure that requests for planning obligations are related in scale and in kind to the development that is proposed and meet the tests in Government guidance.
- 1.5 Some of the common planning issues that we will seek to address using planning obligations are:
 - Affordable housing
 - Open space
 - Contributions towards health and education
 - Public realm improvements
 - Renewable energy/sustainable development
 - Public art
 - Employment and local labour initiatives
 - Public transport improvements
- 1.6 This list is not exhaustive and in deciding what matters should be addressed through planning obligations we will have regard to adopted policies in the development plan and supplementary planning guidance and emerging policies in the draft Local Development Framework.
- 1.7 We will also seek to ensure that we do not request planning obligations that would result in the development becoming financially unviable or reduce the overall design quality of the scheme.

NEGOTIATING PLANNING OBLIGATIONS A FRONT LOADED APPROACH

- 1.8 As part of the Development Team Service for pre-application discussions, we will identify and negotiate with you any planning obligations at an early stage. This will improve certainty and allow the associated costs to be factored into the scheme at an early stage of its development. This approach will also result in speedier planning decisions. Traditionally final negotiation and drafting of Section 106 agreements has often been left to the end of the process and after a decision in principle by the planning committee. Consequently the time taken to resolve complex negotiations can result in lengthy delays to the issuing of the planning decision, impacting on developers timescales and the council's performance.
- 1.9 The front loaded strategy aims to develop the Section 106 agreement in parallel with pre-application discussions, so that at the point the application is made the heads of terms are clear and the agreement can be drafted in parallel with the processing of the application. This will of course be without prejudice to the council's final determination of the application. If the application is ultimately successful, then in most cases it should be possible to complete the agreement immediately following the committee's resolution to grant planning permission or any determination under delegated powers.
- 1.10 The four main stages of the strategy are set out below:
- Identify the main planning obligation requirements at an early stage of the pre-application discussion process
 - Draft heads of terms of S106 agreement agreed by the conclusion of pre-application discussions and submitted with the application
 - Final version of legal agreement prepared in parallel with the processing of the planning application before it is reported to committee or considered under delegated powers
 - Legal agreement completed and signed immediately following the committee meeting or delegated decision

CONSULTATION

- 1.11 In line with Government best practice and the council's commitment to involving local communities more directly in the planning process, the draft heads of terms for the identified planning obligations should form part of the pre-application community consultation, particularly for more major proposals. Officers will work with you to develop a strategy for consultation. More details are set out in appendix B.

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