



Haringey Unitary Development Plan Consultation

Supplementary Planning Guidance (SPG) Planning Obligations

SPG 10a The Negotiation, Management and Monitoring of Planning Obligations (Adopted 2006)

1. INTRODUCTION

- 1.1 In negotiating, managing and monitoring planning obligations the Council will have particular regard to the following: adopted Haringey Unitary Development Plan (1998) Policy Rim 1.1, Haringey UDP First Deposit Consultation (2003) Policy UD10, SPG11 – 14 (inclusive), and this supplementary guidance.
- 1.2 Supplementary guidance is provided below regarding the following:
- Purpose of this guidance
 - What is a planning obligation?
 - Seeking and negotiating planning obligations
 - Policy framework
 - Procedures for negotiating planning obligations
 - Content of a planning obligation
 - Implementation, monitoring and enforcement of planning obligations
 - Monitoring
 - Enforcement.

2. PURPOSE OF THIS GUIDANCE

- 2.1 The Council has Unitary Development Plan policies concerning the seeking to secure community benefit from development proposals. These are Policy RIM 1.1 Community Benefit, in the adopted UDP (1998) and Policies UD10: Planning Obligations and CW2: Linking Community Facilities to New Developments, in the First Deposit Consultation UDP (2003).
- 2.2 This guidance provides a general overview for planning obligations, the procedures involved and matters that may be included in a planning obligation. Clarifying the use of planning obligations provides an indication of what the Council may expect from developers and therefore a better framework for discussion. More detail on specific types of planning obligations is contained in the following Planning Obligations SPG's:
SPG 11: Affordable Housing

SPG 12: Educational Needs Generated by New Housing
SPG 13: Open Space
SPG 14: Improvements to Public Transport Infrastructure and Services.

3. WHAT IS A PLANNING OBLIGATION?

3.1 The power to enter into a planning obligation is contained in section 106 of the Town and Country Planning Act 1990. There are two types of obligation, a planning agreement between the developer and the local authority or a unilateral undertaking by the developer. Unilateral undertakings are mainly used by developers at planning appeals in order to overcome objections to a proposal.

3.2 Planning obligations should only be asked for where they are:

- Necessary
- Relevant to planning
- Directly related to the proposed development
- Fairly and reasonably related in scale and kind to the proposed development
- Reasonable in all other respects.

3.3 A planning obligation can be used in four ways:

- i. To restrict the development or use of land in a specified way;
- ii. To require specific operations to be carried out;
- iii. To require land to be used in a specific way; or
- iv. To require sums of money to be paid to the authority.

3.4 The purpose of planning obligations is to enable any adverse impacts of a development to be offset, to enhance the physical environment or to contribute towards local facilities. Where a development creates a need for extra facilities, for example new housing may create a need for extra school places, it is reasonable to ask developers to provide or contribute towards the provision of such facilities. It is only acceptable to ask if it would be wrong to allow the development without these facilities. Planning obligations can also be used to overcome difficulties that a development would create. For example a development may result in the loss of open space and therefore it may be reasonable to require the replacement of the open space. Obligations may also be used to improve infrastructure such as new public transport routes, access roads or improved measures for cyclists / pedestrians. All obligations are intended to benefit the local community.

3.5 Planning obligations run with the land therefore if ownership changes then the new owner would be bound by the obligation.

4. SEEKING AND NEGOTIATING PLANNING OBLIGATIONS

A. Policy Framework

A.1 The paragraphs below set out a framework for the use of planning obligations, including when the Council would seek planning obligations, what matters are most likely to be included within an

obligation and the procedures involved. It is hoped that this will provide a clear indication for developers as to what the Council would expect in certain cases.

- A.2 In Haringey, the Council, where appropriate, will seek planning obligations from development proposals under section 106 of the Town & Country Planning Act 1990. The Council will ensure that any planning obligations sought are necessary, relevant to planning, directly related to the proposed development, fairly and reasonably related in scale and kind to the proposed development and reasonable in all other respects. Such obligations will be used to:
- Ensure there is satisfactory infrastructure to allow the development to proceed; and
 - Offset the relevant adverse impacts on the environment, local economic conditions, social, recreational and community facilities that may arise from development, where the development might otherwise have been refused.
- A.3 The Council will assess each application individually to determine if a planning obligation is needed and what matters it should address. All planning obligations sought must meet the tests set out above and in the circular 1/97. Where it is decided that a planning obligation is necessary the Council will fully justify their reasons for seeking an obligation.
- A.4 The Council will ensure that a section 106 agreement will only be entered into where planning conditions cannot be used to overcome problems associated with a development proposal. Where appropriate conditions will be used, and these may also address those concerns described in paragraph 3.2 above.
- A.5 To provide clarity for developers the type of obligation sought by the Council might include:

Obligation	Type of Development
Improvements to public transport, including new-build facilities e.g. bus stands, and funding of additional/extended services for specified periods	Employment / Retail / Development in areas of low public transport accessibility
Improvements to cycling and pedestrian routes and facilities	General
Adoption of travel plans	Employment/Retail/Education/Health/ Leisure
Parking measures such as: <ul style="list-style-type: none"> • Provision of off-street parking in the development or elsewhere • Management of off-street parking in compliance with policy • Contribution to introduction or maintenance of control of on-street parking 	General
Contributions to town centre management	Retail / Leisure / Employment / Community Facilities
Provision of crèches/nurseries related to the need of the workforce	Employment / Tourism / Leisure / Education / Health / Retail

Obligation	Type of Development
Employment training schemes	Employment
Measures ensuring local access to new jobs created	Employment
Education provision in areas where a shortage of school places exists or where development will create a shortage	Residential
Provision of affordable and special needs housing	Residential
Restricting the occupation of affordable and special needs housing to people falling within particular categories of need	Residential
Restricting the occupation of private sector hostels to those on the Council's housing list	Residential
Provision of health facilities	Residential
Provision of community facilities	Major new development
Improvements to the environment near to the development	General
Provision of new areas of open space or improvements to the access to existing open space	Major new development
Contribution to future upkeep and replacement of open space or community facilities	General
Retain and enhance areas of open space, natural habitats and trees	General
Protect or reduce harm to designated sites of nature conservation	General
Securing an acceptable balance of uses	Mixed use developments
Provision of flood attenuation measures	General
Provision of sustainable urban drainage systems	General
Provision of recycling facilities	General
Carrying out archaeological investigations or excavations	General
Improvements to signage and street furniture	General
Provision of public conveniences	General
Provision of public art	General

- A.6 The above table is not an exhaustive list any obligations necessary will depend on the application in hand. In certain circumstances, where the need arises it may be necessary to seek contributions not listed above. In the case of major individual sites suitable for redevelopment any planning obligations deemed necessary will be set out in planning briefs.
- A.7 For key regeneration sites in the Borough the necessity and type of planning obligations will be monitored by the Council's Strategic Sites Group. This group brings together the key officers in the Council with a role in relation to key sites. As appropriate major schemes negotiations will be reported to the relevant Council Committees, having regard as necessary to commercial confidentiality.
- A.8 Where it is necessary to prioritise planning benefits regard will be had to the Council's priorities, which are:
- Improve services – in particular health and social care

- Improving the most deprived neighbourhoods
- Create safer communities
- Improve the environment
- Raise achievement in education and create opportunities for life long learning.

B. Procedures for Negotiating Planning Obligations

- B.9** If planning obligations are considered necessary to allow a particular development proposal to go ahead then the planning officer will raise this with the applicant as soon as possible. Pre-application discussions are strongly encouraged but where these do not occur negotiations will take place as soon as possible after the planning application has been submitted.
- B.2** The case officer will be the main point of contact for negotiations. It will be the case officer's responsibility to discuss with other services (such as housing/education) what requirements if any they consider necessary. The case officer will then enter into negotiations with the applicant over the need for a planning obligation and the matters it should address. The case officer will normally conduct all negotiations unless a legal representative is needed to discuss a point of law.
- B.3** The planning application will be submitted to Planning Applications Sub-Committee with a resolution to grant planning permission subject to a section 106 agreement being entered into. The report to the Sub-committee will include the draft agreed heads of term as recommended by the Nolan Report "Standards in Public Life" 1997. The Council's legal service will normally only be instructed to draw up the planning obligations once a resolution to grant planning permission has been made by Sub-Committee.
- B.4** When the planning obligation is finalised all relevant parties must sign the document. The decision notice granting planning permission will only be released when the agreement has been agreed and sealed. A copy of the agreement will be placed on the Council's planning register. It should be noted that depending on the nature and complexity of the case it can take a considerable time to reach final agreement on the detailed terms of the agreement, and developers are asked to ensure that sufficient time and resources are made available in their programme. The Council will endeavour to deal with agreements as expeditiously as possible. Any significant changes to the heads of agreement will require re-submission to the Planning Applications Sub-Committee.
- B.5** The agreement will usually come into force when the planning permission is implemented, i.e. when the development commences. The start of development is defined as the date on which any material operation connected to the development starts such as the digging of foundations or the laying out of a road. This is in accordance with section 56 of the Town & Country Planning Act 1990. Occasionally it is necessary to provide for

specific obligations to come into force prior to or after the start of the development.

C. Content of a Planning Obligation

C.1 A valid planning obligation must include:

- identification of the land involved
- identification of the person entering the agreement and their interest in the land
- identification of the authority who will enforce the obligation

The planning obligation will also include:

- description of the development
- the type and amount of obligations the developer has agreed to, this may be in the form of actual works or financial contributions
- a trigger for when the benefits should be provided
- if financial requirements are provided the agreement may state a time limit within which the money should be spent
- definitions of terms used within the agreement
- provision for the legal costs of drafting the agreement to be met
- provision for any significant monitoring costs to be met.

5. IMPLEMENTATION, MONITORING AND ENFORCEMENT OF PLANNING OBLIGATIONS

5.1 As stated in paragraph 3.13 planning obligations will normally come into force once development has started. Most agreements provide that at this point financial contributions should be paid to the council and any physical works should commence. However, in some cases the obligation may state that payments should be phased. Such cases will need closer monitoring to ensure that all payments have been made over the agreed period. It is important that planning obligations are logged, monitored and accounted for in order to provide information for interested parties on the outcome of any agreement. This will help to ensure that the process is open and fair.

5.2 The Council has introduced arrangements to ensure detailed monitoring of planning obligations. The procedures for monitoring and enforcement are set out below.

A. Monitoring

A.1 When a planning obligation has been signed and a decision notice issued, copies will be sent to the monitoring officer. The monitoring officer will enter information relating to the planning obligation into a database for the purposes of monitoring. The system will record information such as:

- A reference number
- Address
- Description of development
- Planning obligation heads of term
- Amount of financial contribution
- Date development started

- Date money received
- Date money spent
- Works completed

A.2 The monitoring officer will liaise with building control and development control to determine when developments that have a planning obligation attached to them have started. Site visits will be conducted as appropriate to ensure that the developer carries out any physical works required by the planning obligation. Where financial contributions are made the monitoring officer will liaise with the Council's Planning, Environmental Policy and Performance's finance section, to ensure that monies have been received and paid into a planning obligations account. A specific code will be set up relating to each planning obligation to enable the money to be tracked. The monitoring officer will ensure that services for which the money is intended are aware that the money has arrived and of any time limits within which the money must be spent. Some planning obligations agreements require that if financial contributions are not spent within the specified time period then the Council will refund the developer with interest, so the monitoring officer will be proactive in seeking the completion of relevant projects. To obtain the money to complete the agreed works the relevant Council Service will first provide a description of the proposed works in keeping with the agreement before money is released from the account. This will ensure that money was spent on what was agreed in the planning obligation. The monitoring officer will keep copies of all receipts and records relating to a planning obligation to aid monitoring. In this way the monitoring officer can ensure that planning obligations are complied with.

A.3 The monitoring system will indicate when all the money in connection with a planning obligation has been spent. At this point a closing statement can be sent to the developer and also placed on the planning register. This will increase the transparency of the system and inform developers and the public that the money was spent on what was set out in the planning obligation.

B. Enforcement

B.1 If it is evident that planning obligations are not being complied with the monitoring officer will instigate enforcement action. Planning obligations can be enforced through the use of an injunction, which can stop the development proceeding. The authority has the power to enter the land and carry out any works that were required and recover costs (must give 21 days notice of intention to do this), anyone who obstructs the authority from doing this is liable to a fine of up to £1000. In addition the Council will consider charging developers interest for the late payment of financial contributions. This will be written into any planning obligation so that developers are aware of the implications of late payment and agree to the terms.

- B.2** The monitoring officer will produce quarterly reports for committee setting out the contributions agreed through planning obligations, progress towards their implementation and any enforcement action taken. The reports will indicate which planning obligations have been met and therefore the benefits that have been provided.