

planning obligations

Planning obligations are private agreements negotiated, usually in the context of planning applications, between local planning authorities (LPA) and persons with an interest in the land. Obligations can also be secured through unilateral undertakings by developers. In either case an obligation is intended to make acceptable development which might otherwise be unacceptable in planning terms.

Local planning authorities are encouraged to impose a condition rather than seek to deal with the matter by means of a planning obligation. This is because the imposition of restrictions by means of a planning obligation deprives the developer of the opportunity of seeking to have the restrictions varied or removed by an application or appeal. The main use of a obligation is therefore when a third party is involved for example where highway works need to be undertaken outside the boundaries of the site or financial contributions made to a Housing Association.

Developer Contribution Strategies

Many local planning authorities are preparing formal strategies to provide a fixed scale of contributions they expect from developers and to define the type of qualifying development that will be expected to make such contributions. Such strategies may take the form of a 'roof tax' or may allow for negotiation in individual cases.

DLP Planning can review emerging Contributions Strategies and advise on the reasonableness and on the practical implications that they may have on development in the area. We are well versed at making effective representations on Contributions Strategies and have participated in a number of developer forums set up by local planning authorities to help guide the preparation of such documents.

Community Infrastructure Levy

Planning legislation allows for the introduction of a Community Infrastructure Levy (CIL) which Government

intends should provide a major contribution to funding strategic infrastructure works particularly in areas of large scale growth. It expects that the CIL will also cover a number of local infrastructure provisions which to date have been subject to contributions made through individual planning obligations.

Local planning authorities will be able to decide whether to introduce a CIL but before doing so they will have to prepare a charging strategy to be set out in a development plan document. Any authorities in which the CIL is established may also seek to impose planning obligations, albeit for a much reduced range of local requirements.

DLP Planning can advise on the best strategy for their clients in individual circumstances including those who wish to participate in the process of establishing a CIL Strategy.

Renegotiation

Many local planning authorities have accepted that planning obligations previously agreed or strategies previously approved are rendering development unviable. DLP Planning can advise on the means to renegotiate existing obligations to reduce or defer costs to the extent that development is able to proceed.

Payment Recovery

Many planning applications that have been successfully implemented have been subject to conditions or planning obligations requiring the payment of money to the public authorities for a variety of local infrastructure works including the construction or improvement of roads and junctions, the provision or extension of schools, libraries and healthcare facilities or for minor works such as the provision of fire hydrants.

DLP Planning is always careful to ensure that conditions or obligations requiring such payments stipulate the period in which the money needs to be spent. In some cases financial contributions have not been spent where new events have overtaken original intentions or where money has been pooled along with contributions from other schemes.

DLP Planning can help you recover money that has been paid in accordance with the condition or obligation but has not demonstrably been used for the public benefit in accordance with the reason why the contribution was initially sought.

