



Planning, Transport and Sustainable Development

Section 106 Unilateral Undertakings

Information Sheet for Applicants

This sheet has been provided to give advice to applicants regarding the use of Unilateral Undertakings (also called "Unilateral Planning Obligations") as a means of securing Planning Obligations. The Council considers that in most instances a planning obligation is best expressed through a negotiated agreement. However, there are cases where the use of Unilateral Undertakings can assist in ensuring that planning permissions are granted speedily, which benefits both the Applicant and the Council.

The Council's approach to Planning Obligations is set out in SPD4 "Achieving Positive Planning through the use of Planning Obligations" (adopted 13 October 2005). This is available on the Council's website or from the Council's Planning Obligations Project Manager on 0117 903 6724. Applicants are strongly advised to read this SPD prior to submitting a major application (10 or more residential units, or commercial development over 1000m²) as it sets out the context of the Council's expectations and policies in detail and includes formulae where appropriate. This will enable applicants to gauge the type and level of obligations required from their proposal.

A Unilateral Undertaking template (with completion notes) is available on the Council's website on the Planning Obligations page or from the Council's Planning Obligations Project Manager on 0117 903 6724.

The Council considers that it will normally be appropriate for a Unilateral Undertaking to be used **only if all the following conditions are met:-**

1. The person entering into the Undertaking is the owner of the land (not merely a purchaser with a conditional contract) and there are no mortgages, leases or tenancies.
2. The Planning Obligation will consist solely of the payment of financial contributions, of one or more of the types described in the template, to be paid on commencement of development.
3. The Undertaking includes an obligation to pay the Council's costs of £190 in assessing the adequacy of the Undertaking (which will include checking the title to the land) and registering the Undertaking as a local land charge.

4. The Undertaking includes an obligation to pay a fee of 15% of the Planning Application fee to cover the Council's costs in monitoring the implementation of the Planning Obligation.
5. The use of the Undertaking is likely to enable permission to be granted within 13 weeks of the application being registered by the Council.

If any of the above conditions are not met, the Council will normally consider the matter unsuitable for a Unilateral Undertaking and will expect the Applicant to enter into a conventional negotiated Section 106 Agreement - the Council will provide a draft agreement.

If the Applicant considers that the above conditions are met and the Development Control Officer dealing with the application has confirmed that a Unilateral Undertaking would be appropriate, then the Applicant should complete a draft Unilateral Undertaking (using the template) and submit this to the Development Control Officer as soon as possible together with proof of title to the land.

Upon receipt of the draft Undertaking, the Council's Legal Services Division will assess it and confirm whether it is acceptable or whether amendments are required. They will also check the proof of title submitted. If any amendments are required the draft will be returned to the applicant.

The Council is committed to delivering a development control service that meets or exceeds national targets. However, a Unilateral Undertaking must be completed and signed before the application can be decided. Applicants are therefore strongly advised to allow sufficient time for their draft undertaking to be assessed and (if need be) amended - it is recommended that the draft is submitted at least one month before the 13 week deadline is reached.