

Appendix A

To: 'david mansoor' >; 'Martin Saluzzo'

Subject: RE: s.106 WR Appeal: 44-46 Birchington Road: 2024/5188/P (3177908)

Dear David,

Thank you for your email.

We are unable to advise what options you should take, we advise you seek independent legal representation.

However, if you do take a Unilateral Undertaking (UU) route, then you would need to draft the UU and the fees are still required as the Council will still need to review the UU and if the legal fees are not agreed any comments on the UU will go directly to the Inspector.

Please see attached the decision notice. Can you please confirm if you will be drafting the Unilateral Undertaking for comment or if you would prefer the Council drafts a bi-lateral agreement.

I recommend that your client complete a Section 106 Agreement before the appeal, as required by PINS. However, it is ultimately their decision whether to accept this risk and proceed without it.

I look forward to hearing from you.

Kind regards,

Hadiza Mohammed
Legal Assistant - Planning, Property & Contracts

Telephone:

From: david mansoor <>

Sent: 24 March 2025 14:32

To: Hadiza Mohammed <>; 'Martin Saluzzo' <>

Subject: Re: s.106 WR Appeal: 44-46 Birchington Road: 2024/5188/P (3177908)

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Dear Hadiza,

Thank you for this clarification.

Having now discussed this matter with my client and fully understanding the implications of the costs required up front - before having received the reassurance of knowing that Planning Permission will be received - I am afraid we are not in a position to proceed with signing the agreement at this time.

Whilst my client is willing to enter into the agreement in principle, proceeding without the reassurance that planning permission will be given (either by the LPA or by PINS) is not a palatable move.

I would be grateful if you could outline any alternative options in this matter... Would a Unilateral Undertaking (UU) be an option?

My client is aware that the Inspectorate are expecting a signed S106 agreement, as part of this appeal.

However, we have noted in the Appeal that the applicant is willing to enter into the agreement, subject to confirmation that Planning would subsequently be issued, thus reassuring my client that these charges would be justified.

I would be happy to discuss this matter, should you have any questions.

With kind regards

David Mansoor

From: Hadiza Mohammed <>
Sent: 24 March 2025 13:46
To: 'david mansoor' <>; 'Martin Saluzzo' <>
Subject: RE: s.106 WR Appeal: 44-46 Birchington Road: 2024/5188/P (3177908)

Dear David,

Thank you for your email. The costs required prior to completion are as follows:

£3,274.00 made up of £3,211.00 as to our legal fees, and £63.00 for Land Registry Charges.

I will send out an Invoice for the above fees along with the engrossment Agreement for signature by your client, once the Agreement has been approved by all parties.

Kind regards,

Hadiza Mohammed
Legal Assistant - Planning, Property & Contracts

Telephone: 020 7974 5680

From: david mansoor <>
Sent: 24 March 2025 13:28
To: Hadiza Mohammed <>; 'Martin Saluzzo' <>
Subject: Re: s.106 WR Appeal: 44-46 Birchington Road: 2024/5188/P (3177908)

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Dear Hadiza,

Thank you for your email and for the additional clarification on this matter. Much appreciated.

Please could you outline the costs involved, in the event that Planning Permission is not granted by the Planning Inspectorate?

Regards

David

From: Hadiza Mohammed < >
Sent: 24 March 2025 11:22
To: 'Martin Saluzzo' < >
Cc: david mansoor < >
Subject: RE: s.106 WR Appeal: 44-46 Birchington Road: 2024/5188/P (3177908)

Dear Martin and David,

Thank you for your email.

“48 BIRCHINGTON ROAD” has been added to the Agreement as the red line on the title register documents from the land registry shows that the development falls within the red line on the location plan.

The Councils fees are set by cabinet based on the number of Heads of Terms and are entirely reasonable , as per Camden Planning Guidance for Developer Contributions (see para 6.8 to 6.14 which goes into more detail: [1 \(camden.gov.uk\)](https://www.camden.gov.uk)).

Also please note that the fees stated are for both legal and planning departments monitoring fees, not just legal fees.

The legal fees are required prior to completion of the s.106 Agreement and the monitoring fees are required to be paid within twenty-eight days of the Planning Permission being granted by the Planning Inspectorate. Please see attached clause 6.3 and 6.4 of the Agreement. My apologies for missing out clause 6.4.

Kind regards,

Hadiza Mohammed
Legal Assistant - Planning, Property & Contracts

Telephone:

From: Martin Saluzzo < >

Sent: 19 March 2025 17:48

To: Hadiza Mohammed < >

Cc: david mansoor < >

Subject: Re: s.106 WR Appeal: 44-46 Birchington Road: 2024/5188/P (3177908)

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[EXTERNAL EMAIL] Beware – This email originated outside Camden Council and may be malicious Please take extra care with any links, attachments, requests to take action or for you to verify your password etc.

Dear Hadiza,

Thanks for your email below.

Firstly, please note there is a mistake in your draft. It states "44, 46 **AND 48** BIRCHINGTON ROAD" as the application site, which is incorrect. Our application and subsequent appeal currently under consideration relate only to 44-46 Birchington Road (as correctly stated on the subject of this email, the original refusal notice and the appeal letter). Please amend your draft accordingly.

Secondly, once again your department seems to be demanding payment before the application (or in this case the appeal) is supported. We think you are demanding a considerable fee (over £5,000) too early in the process. Please clarify when these monies would be due. We clearly stated in the past, as well as in the submitted appeal statement, that the applicant is perfectly willing to sign the S.106 legal agreement and to pay any associated costs in due course once the scheme is supported. This arguably could be conditioned as part of an eventual positive appeal decision.

I would appreciate it if you could please provide a prompt response to the above matters so we can discuss the best way forward with our client, considering the limited time available.

Finally, please note that the agent acting on behalf of the applicant for the purposes of the current appeal is Mr David Mansoor (cc'd). Please copy him in any future correspondence.

Kind regards,

--

Martin Saluzzo
Architect / Director

ARB, ACArch

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Wave Architects Ltd.
Email:

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On Mon, 17 Mar 2025 at 17:16, Hadiza Mohammed < > wrote:

Dear Martin,

I act for the Council's planning department in relation to the Section 106 Agreement on the above appeal and understand you are the agent acting on behalf of the applicant.

In accordance with my instructions, I have prepared the attached draft Agreement for your use in the appeal.

Please note the following.

1. Completion Date

This Agreement must be completed as soon as possible **and no later than 11th April 2025, the date that written representations are due.** Given the time it will take the Council to issue engrossments, receive engrossments back and seal the agreement (which will not occur until payment is received), approval of the agreement should be provided as soon as possible.

2. Parties to the Agreement

All parties with an interest in the land are required to be a party to the Agreement so please check the draft to ensure all such parties have been referred to. If details change or new parties (e.g. mortgagees) are subsequently added to the title please let me know forthwith as failure to do this may prevent completion taking place prior to the deadline.

3. Legal fees and monitoring fees

Please note that your client will need to pay our costs in relation to this matter, whether or not the matter proceeds to completion. We anticipate the costs as being £5,146.00 made up of £3,211.00 as to our legal fees, a one off monitoring fee of £1,872.00 (being 624.00 per head of term), and £63.00 for Land Registry Charges. If negotiations become protracted and costs exceed the £3,211.00 fee we will charge on a £401 per hour basis until such time as the matter is completed. I will provide you with an invoice when I send you the engrossment copies of the Agreement for signature.

Before we proceed any further the Council requires the following from you:-

- i. An undertaking to pay the Council's legal fees as set out above; and
- ii. Your agreement in writing to extend the relevant statutory period within which this application can be determined to allow for the negotiation, agreement and completion of this matter.

I have attached suggested wording for you to use to make this undertaking to this email.

Kind Regards,

Hadiza

Hadiza Mohammed
Legal Assistant - Planning, Property & Contracts

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