



Department for
Communities and
Local Government

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Government*

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Your Ref: 2014/1617/P

Our Ref: APP/X5210/W/14/3001616

Jagdish Akhaja
London Borough of Camden
Development Control
Town Hall
Argyle Street
WC1H 8ND

3 November 2015

Dear Jagdish Akhaja

**Community Infrastructure Levy Regulations 2010, Regulation 123(3) as amended
Appeal by Essential Living (Swiss Cottage) Ltd at 100 Avenue Road, London, NW3 3HF**

1. I refer to the above Regulation 123(3), concerning limitations on the use of planning obligations in the determination of planning applications and appeals. Following the end of the transitional period on 6 April 2015, the requirements of the Regulation came into effect. The Regulations are available online at <http://www.legislation.gov.uk/uksi/2010/948/regulation/123/made>.
2. Broadly, following the end of the transitional period, a planning obligation may not constitute a reason for granting planning permission where it provides for the funding or provision of an infrastructure project or type of infrastructure, and five or more separate planning obligations have previously been entered into on or after 6 April 2010 that already provide for the funding or provision of that project or type of infrastructure. Obligations requiring a highway agreement to be entered into are not limited in this way.
3. Planning Practice Guidance paragraph: 024 Reference ID:23b-024-20150326 at <http://planningguidance.planning.portal.gov.uk/blog/guidance/planning-obligations/planning-obligations-guidance/#paragraph-024> outlines that Councils are required to keep a copy of any planning obligation, together with details of any modification or discharge of the planning obligation, and make these publically available on their planning register.
4. From my review of the appeal documentation, I note that your Council considers that a contribution/contributions secured by a planning obligation or obligations would be required to make these appeal proposals acceptable in planning terms.
5. Please could you clarify the number of planning obligations which have been entered into on or after 6 April 2010 which provide for the funding or provision of a project, or provide for the funding or provision of that type of infrastructure for which your Council is seeking an obligation in relation to these appeal proposals. This information is required for each obligation required by your Council.
6. I note that the London Borough of Camden has been charging CIL since 1 April 2015 and that the appeal site lies within CIL Charging Zone C. I understand the proposed

development would be liable for CIL in the event that the appeal is upheld. Please could you clarify the status of the proposed Section 106 planning obligations in light of regulation 123(2), which provides that Section 106 contributions may not be sought for items set out on a charging authority's Regulation 123 list.

7. I would be grateful for your written response within 14 days of the date of this letter. A copy of this letter has been sent to the appellants for information, and they should be copied into your response.
8. The Secretary of State considers that he will not be in a position to reach a decision by the previously advised date of 30 November 2015, because of the need to allow parties time to respond to this letter. Therefore, in the exercise of the power conferred on him by paragraph 6(2) of Schedule 2 to the Planning and Compulsory Purchase Act 2004, he hereby gives notice that he has varied the timetable previously set and will now issue his decision on or before 29 December 2015.

Yours sincerely

Philip Barber

Philip Barber
Decision Officer