

From:



Subject:

RE: TWUL ExQ1 Response [ES-CLOUD_UK.FID10984399]

Date:

17 January 2025 21:50:07

Good evening,

Please see TWUL's response to ExQ1.16.0.3 below.

ExQ1	Question to:	Question	TWUL Response
Q1.16.0.3	LBBC, Peabody Trust and TWUL	Deed of Obligations (A) and (B) Are the parties satisfied that the Deeds of Obligations have been drafted in a legally satisfactory manner and meet the tests for such obligations?	<p>TWUL notes that Obligations A and B are not being entered into pursuant to section 106 of the Town and Country Planning Act 1990 at present. Rather, they are being entered into (primarily) under section 111 of the Local Government Act 1972, which permits local authorities to enter into deeds in the same way as any other person or company – see clause 2.1 of each Obligation. As a consequence, Obligations A and B are not planning obligations for the purposes of section 106 – they are personal contracts which may be enforced only against the specific parties to the deeds; they do not bind the application site, nor the parties' successors in title (save to the extent specified in clause 8.2 of each Obligation).</p> <p>We assume reference to 'the tests' in question Q1 16.03 means the tests in regulation 122 of the Community Infrastructure Levy ("CIL") Regulations 2010). CIL Regulation 122(2) states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. Regulation</p>

			<p>122(3) defines "planning obligation" as meaning a planning obligation under section 106 of the 1990 Act.</p> <p>Obligations A and B are not section 106 planning obligations as currently drafted; consequently regulation 122 is not currently engaged.</p>
--	--	--	---

Kind regards,

Martin

Martin Pinnington
Senior Associate - Planning and Infrastructure Consenting, Eversheds Sutherland (International) LLP

T: +44 115 931 7559
M: +44 7770 483 906

Eversheds Sutherland

Helping our clients, our people and our communities to thrive

This email is sent for and on behalf of Eversheds Sutherland (International) LLP

Eversheds Sutherland (International) LLP is a limited liability partnership, registered in England and Wales, (number OC304065), registered office One Wood Street, London, EC2V 7WS. Registered VAT number GB820704559. A list of names of the members (who are referred to as "partners") together with a list of those non-members who are designated as partners and their professional qualifications is available for inspection at the above office. Eversheds Sutherland (International) LLP is authorised and regulated by the Solicitors Regulation Authority (SRA number 383181) and governed by the SRA Standards and Regulations (see [REDACTED]). Eversheds Sutherland (International) LLP is part of a global legal practice, operating through various separate and distinct legal entities, under Eversheds Sutherland. Each Eversheds Sutherland entity is a separate legal entity and is not responsible for the acts or omissions of, nor can bind or obligate, another Eversheds Sutherland entity. For a full description of the structure and a list of offices, please visit [REDACTED].

Confidentiality: This e-mail and its attachments are intended solely for the person to whom they are addressed, are strictly confidential and may contain privileged information. If they have come to you in error you must not copy or show them to anyone; please reply to this e-mail and highlight the error to the sender and then immediately delete the message. Unless expressly agreed in writing, Eversheds Sutherland (International) LLP accepts no liability to persons other than clients of the firm in respect of the contents of emails or attachments.

We process your personal data in accordance with our Privacy Notice [REDACTED]. If you have any queries or would like to exercise any of your rights in relation to your personal data, please contact [REDACTED].

Cybercrime notification: Our bank account details will NOT change during the course of a transaction. Please speak to us before transferring any money. We will not take responsibility if you transfer money to an incorrect bank account. If you receive an email from Eversheds Sutherland (International) LLP requesting your bank details or purporting to amend our bank details, please contact us, or your solicitor, as appropriate, by telephone immediately to clarify.

[REDACTED]