



## 8 The Hertsmere approach to s106 agreements and unilateral undertakings



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To some extent, the use of any s106 agreement is likely to be time-consuming and involve elements of complication. It is clearly in the interest of all parties to keep this down to a minimum and the council needs to meet targets for turning around the majority of applications within eight weeks (13 weeks for larger applications), as part of the delivery of an efficient service to applicants. For this to occur:

- The s106 agreement will be viewed as an integral part of the planning application process with applicants providing draft heads of terms at the earliest opportunity, preferably when the application is submitted;
- The committee report on any planning application will include clear recommendations indicating the nature of the s106 and any trigger points;
- All consultees (internal and external to the council) will be given 21 days to indicate the nature of the s106 and any items they wish to be considered for inclusion in the agreement;
- For smaller applications (less than 10 units), the council will consider a unilateral undertaking from an applicant instead of a s106 agreement, in order to provide a more expedited service.
- In instances where planning permission is granted subject to the signing of a section 106 agreement, it is expected that the s106 should be agreed and completed expediently follow the committee decision. Unless there are exceptional and acceptable reasons for the delay, planning consent may be refused: The following resolution is proposed in such instances:

*“X Powers be delegated to the Development Team Manager(s) to grant planning permission subject to the receipt of an agreement or unilateral undertaking under Section 106 of the Town and Country Planning Act,*

*X Should the agreement or unilateral undertaking under Section 106 not be completed by x, the*

*Development Team Manager(s) be delegated powers, should it be considered appropriate, to refuse the planning application for the reason set out.”*

The council recognises that in some cases it may exceptionally need to consider whether there is scope to review the level of obligations/financial contributions sought (including the potential use of claw back arrangements) in order to bring a scheme forward, particularly in light of any CIL liabilities. The broad viability of development in different areas of the borough was considered as part of the work undertaken on the Affordable Housing policies in the  [Core Strategy](#), as well the evidence for establishing the CIL charging schedule.

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