

Community Infrastructure Levy Regulations 2010/948

reg. 122 Limitation on use of planning obligations



Law In Force

Version 3 of 3

1 September 2019 - Present

Subjects
Planning

England

[

122.— Limitation on use of planning obligations

- (1) This regulation applies where a relevant determination is made which results in planning permission being granted for development.
- (2) Subject to paragraph (2A), 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.

[

- (2A) Paragraph (2) does not apply in relation to a planning obligation which requires a sum to be paid to a local planning authority in respect of the cost of monitoring (including reporting under these Regulations) in relation to the delivery of planning obligations in the authority's area, provided—
 - (a) the sum to be paid fairly and reasonably relates in scale and kind to the development; and
 - (b) the sum to be paid to the authority does not exceed the authority's estimate of its cost of monitoring the development over the lifetime of the planning obligations which relate to that development.

] ⁷

- (3) In this regulation—

“planning obligation” means a planning obligation under [section 106 of TCPA 1990](#) and includes a proposed planning obligation; and

“relevant determination” means a determination made on or after 6th April 2010—

- (a) under [section 70, 73, 76A or 77 of TCPA 1990](#) ⁸ of an application for planning permission; or
- (b) under [section 79 of TCPA 1990](#) ⁹ of an appeal.

] ⁶

Wales

122.— Limitation on use of planning obligations

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(2) 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.

(3) In this regulation—

“*planning obligation*” means a planning obligation under [section 106 of TCPA 1990](#) and includes a proposed planning obligation; and

“*relevant determination*” means a determination made on or after 6th April 2010—

- (a) under [[section 70, 73, 76A or 77 of TCPA 1990](#)]^{1 2} of an application for planning permission [...] ³ ; or
- (b) under [section 79 of TCPA 1990](#)⁴ of an appeal [...] ⁵ .

Notes

- 1 Word inserted by Community Infrastructure Levy (Amendment) Regulations 2011/987 [reg.12\(1\)\(a\)](#) (April 6, 2011)
- 2 [Section 70](#) was amended by [paragraph 14 of Schedule 7 to the Planning and Compensation Act 1991 \(c. 34\)](#). [Section 76A](#) was inserted by [section 44 of the Planning and Compulsory Purchase Act 2004 \(c. 5\)](#). [Section 77](#) was amended by [section 40\(2\)\(d\) of the Planning and Compulsory Purchase Act 2004](#), [paragraph 18 of Schedule 7 to the Planning and Compensation Act 1991](#) and [paragraph 2 of Schedule 10 to the Planning Act 2008 \(c. 29\)](#).
- 3 Words revoked by Community Infrastructure Levy (Amendment) Regulations 2011/987 [reg.12\(1\)\(b\)\(i\)](#) (April 6, 2011)
- 4 [Section 79](#) was amended by [section 18 of the Planning and Compensation Act 1991](#) and [paragraph 4 of Schedule 10 to the Planning Act 2008](#).
- 5 Words revoked by Community Infrastructure Levy (Amendment) Regulations 2011/987 [reg.12\(1\)\(b\)\(ii\)](#) (April 6, 2011)
- 6 Words inserted by Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019/1103 [reg.10\(a\)](#) (September 1, 2019: insertion has effect subject to transitional and saving provisions specified in SI 2019/1103 [reg.13](#))
- 7 Added by Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019/1103 [reg.10\(b\)](#) (September 1, 2019: insertion has effect subject to transitional and saving provisions specified in SI 2019/1103 [reg.13](#))
- 8 [Section 70](#) was amended by [paragraph 14 of Schedule 7 to the Planning and Compensation Act 1991 \(c. 34\)](#). [Section 76A](#) was inserted by [section 44 of the Planning and Compulsory Purchase Act 2004 \(c. 5\)](#). [Section 77](#) was amended by [section 40\(2\)\(d\) of the Planning and Compulsory Purchase Act 2004](#), [paragraph 18 of Schedule 7 to the Planning and Compensation Act 1991](#) and [paragraph 2 of Schedule 10 to the Planning Act 2008 \(c. 29\)](#).
- 9 [Section 79](#) was amended by [section 18 of the Planning and Compensation Act 1991](#) and [paragraph 4 of Schedule 10 to the Planning Act 2008](#).

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