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DRAFT STATUTORY INSTRUMENTS

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**2010 No.**

**The Community Infrastructure Levy Regulations 2010**

**PART 11**

**PLANNING OBLIGATIONS**

**Further limitations on use of planning obligations**

**123.**—(1) This regulation applies where a relevant determination is made which results in planning permission being granted for development.

(2) A planning obligation may not constitute a reason for granting planning permission for the development to the extent that the obligation provides for the funding or provision of relevant infrastructure.

(3) A planning obligation (“obligation A”) may not constitute a reason for granting planning permission to the extent that—

- (a) obligation A provides for the funding or provision of an infrastructure project or type of infrastructure; and
- (b) five or more separate planning obligations that—
  - (i) relate to planning permissions granted for development within the area of the charging authority; and
  - (ii) which provide for the funding or provision of that project, or type of infrastructure, have been entered into before the date that obligation A was entered into.

(4) In this regulation—

“charging authority” means the charging authority for the area in which the development will be situated;

“funding” in relation to the funding of infrastructure, means the provision of that infrastructure by way of funding;

“determination” means a determination—

- (a) under section 70, 76A or 77 of TCPA 1990 of an application for planning permission which is not an application to which section 73 of TCPA 1990 applies, or
- (b) under section 79 of TCPA 1990 of an appeal where the application which gives rise to the appeal is not one to which section 73 applies;

“planning obligation” means a planning obligation under section 106 of TCPA 1990 and includes a proposed planning obligation but does not include a planning obligation that relates to or is connected with the funding or provision of scheduled works within the meaning of Schedule 1 to the Crossrail Act 2008;

“relevant determination” means—

- (a) in relation to paragraph (2), a determination made on or after the date when the charging authority’s first charging schedule takes effect, and

- (b) in relation to paragraph (3), a determination made on or after 6th April 2014 or the date when the charging authority's first charging schedule takes effect, whichever is earlier; and

“relevant infrastructure” means—

- (a) where a charging authority has published on its website a list of infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL, those infrastructure projects or types of infrastructure, or
- (b) where no such list has been published, any infrastructure.