

**VASTERN COURT, READING RG1 8AL**

**TOWN AND COUNTRY PLANNING ACT 1990 APPEAL UNDER SECTION 78**

**APPEAL BY AVIVA LIFE & PENSIONS UK LTD AGAINST THE FAILURE OF READING  
BOROUGH COUNCIL TO DETERMINE WITHIN THE PRESCRIBED PERIOD A  
PLANNING APPLICATION**

**POSITION STATEMENT ON STATUS OF SECTION 106 AGREEMENT  
AS AT 23 SEPTEMBER 2022**

**INSPECTORATE REFERENCE: APP/E0345/W/21/3289748**

**READING BOROUGH COUNCIL REFERENCE: 200328**

1. The latest draft of the Section 106 Agreement was circulated by CMS (acting for the Appellant) to Clyde & Co (acting for the Council) on 12 September 2022.
2. Clyde & Co are taking instructions from the Council on the latest draft, and will secure instructions and return an updated draft to CMS on 27 September 2022.
3. Assuming the draft is returned to CMS on 27 September 2022, then CMS will take instructions and provide an updated draft to the Inspector and Clyde & Co in advance of the Inquiry resuming on 4 October 2022, along with a further position statement.
4. The parties have been working collaboratively towards progressing and finalising the Section 106 Agreement, with the approach to the obligations broadly agreed between the parties, subject to agreement on the precise drafting.
5. The parties are also progressing a separate tripartite Section 106 Agreement with Hermes (the proposed developer of the land to the south of the site) for the delivery of a shared access road between the two development sites on either Hermes' or the Appellant's land to provide access to the other developer's site.
6. The tripartite Section 106 Agreement's obligations are subject to the Secretary of State concluding that such shared access road is required to make the development the subject of this appeal acceptable in planning terms and the obligations are otherwise compliant with the tests within Regulation 122 of the Community Infrastructure Levy Regulations 2010. The Appellant's position is that it is not required, and the Council's position is that it is.
7. Hermes and the Appellant also intend to enter into a separate commercial agreement to control the arrangements for the delivery and ongoing use of the shared access road.
8. The principle of this approach is acceptable to all of the parties, and the parties are working collaboratively to reach agreement on the tripartite Section 106 Agreement.
9. Clyde & Co provided a draft of the tripartite Section 106 Agreement to Trowers & Hamblins (acting for Hermes) and CMS on 1 July 2022. Trowers and CMS have updated that draft Tripartite Section 106 Agreement, the principles of which are agreed, and are progressing negotiations on the heads of terms for the commercial agreement. Once the heads of terms for the commercial agreement are agreed, the draft tripartite Section 106 Agreement will be returned to Clyde & Co. It is anticipated that comments on the draft will be returned to Clyde & Co in advance of the Inquiry resuming on 4 October 2022.

**CMS CAMERON MCKENNA NABARRO OLSWANG LLP**

**23 SEPTEMBER 2022**