

LONDON BOROUGH OF SOUTHWARK'S INITIAL COMMENTS ON THE UNILATERAL
UNDERTAKING

1. On 22 October 2025 (at 22.50), the Appellant provided a new draft s 106 agreement to the London Borough of Southwark ("LBS"). This document differed in both substance and form from the last draft which was the subject of ongoing discussions between the parties, and in respect of which a number of issues were unresolved.
2. On 24 October 2025 (at 19.24), the Appellant sent a Unilateral Undertaking to the Inspector and copied to LBS ("UU"). The substance of the proposed obligations seem to broadly reflect the new draft provided to LBS on 22 October 2025.
3. In practical terms the provision of two new documents in the three working days before the start of the inquiry is unsatisfactory . The Appellant has not provided a list of the obligations to which it proposes to commit, nor indicated any reasons for rejecting the obligations which LBS has stated as being necessary since July 2025 (CD 3.1, p 257-264). It should also be noted that the Appellant's chronology of negotiations omits to mention that LBS provided the draft s 106 on 14 April 2025, and the Appellant's first comments were provided on 21 August 2025.
4. LBS has now undertaken an initial review of the UU. It is inevitable that further review will be required during the course of the Inquiry. For the purposes of keeping the Inspector up to date, LBS is providing an initial summary of the shortfalls in the substance of the Unilateral Undertaking. There will no doubt also be issues relating to its form. The obligations which are most clearly in dispute are summarised below.

Relocation and small shops

5. The UU would fail to make adequate provision in respect of relocation of existing businesses and small shops:
 - a. The UU does not make any provision for a right to return to the completed scheme for Local Independent Operators who are not currently occupying Small Shops. This applies to four identified Local Independent Operators

(Duses Shoes (unit 2), Wing Tai (unit 11A), PAK Butchers (unit 14), and Image (unit 17)). This is contrary to Policy P33 of the Southwark Plan.

- b. The UU does not treat the Handcart Operators as Existing Small Shop Tenants [UU Clause 1] and thus excludes them from a right to return. This is contrary to both Policy P32 (since the Handcarts fall within the definition of “small shop” in the policy) and Policy P33. It is also unclear why the list of Handcart Operators has been reduced to six operators.
- c. The UU excludes the businesses trading in the Market Place entirely from the relocation provisions. This is contrary to Policy P33.
- d. The UU does not make any provision for on site temporary accommodation or phasing arrangements to allow displaced businesses to continue trading during construction, and no evidence has been provided to demonstrate that this is not feasible. This is contrary to Policy P33.
- e. The Affordable Retail secured by the UU is not required to be made available to the Local Independent Operators [UU Schedule 2 Part 6 paragraph 7]. There is no priority or cascade mechanism to allow local independent businesses to make use of either Affordable Retail or Small Shop provision. There is no evidence that the terms upon which the Affordable Retail is to be made available [UU Schedule 2 Part 6 paragraph 7.5] are suitable for the Local Independent Operators, or genuinely affordable. This is contrary to Policy P33.
- f. The Affordable Retail is only secured for 5 years [UU Schedule 2, Part 6, para 7.5], contrary to Policy P31.
- g. In respect of the two Existing Small Shop Tenants for whom an opportunity to return is given by the UU, there is no evidence that the terms upon which the units are to be made available are suitable to them [UU Sch 2, Part 5, para 7.6]. This is contrary to Policy P32 and P33.
- h. The trigger for the provision of affordable retail space (75% occupation of commercial space [UU Schedule 2, Part 6, para 7.2]) is too late to be effective in making genuine affordable provision.

Re-provision of retail

6. There is no requirement in the UU to provide the replacement Morrisons Supermarket prior to the existing supermarket ceasing to trade (or indeed at all). This is contrary to Policy P35 and NSP74.
7. There is no requirement in the UU to provide replacement retail floorspace in Phase 2. This is contrary to Policy P35 and NSP74.

Affordable housing

8. The UU would fail adequately to secure the provision of affordable housing:
 - a. The restriction on the occupation of market units is released by a “Gateway 3” building control application having been made in respect of the affordable units (UU Schedule 1 Part 2 para 1.3). This does not secure the delivery of the affordable housing and accordingly the restriction on market unit occupation should apply until the affordable units are actually available for occupation.
 - b. The viability review provisions in Schedule 1 Part 3 are inadequate to meet the requirements of the Southwark Plan and London Plan which require provision to be made for such review. In particular, the following definitions are not accepted:
 - i. Actual Development Costs
 - ii. Balance
 - iii. Estimated Development Costs
 - iv. The inclusion of fixed 8% finance costs in the definition of Updated Viability Appraisal.

Transport contributions

9. The UU fails to secure adequate mitigation for the transport effects of the proposal:
 - a. There is no provision to secure the necessary highway works or for a bond relating to the completion of those works;
 - b. There is no provision for cycle hire membership contrary to Policy P53;
 - c. There is no provision for a cycle hire contribution contrary to Policy P53;

- d. There is no provision for the storage of e-bikes and scooters contrary to Policy P53;
- e. There is no provision for car club spaces contrary to Policy P54;
- f. There is no provision for public realm provision to meet the standards in the Southwark Street Design Manual (SSDM) and accordingly compliance with Policy P51 is not secured.

10. In addition, the provisions in respect of the Bus Station improvements must be satisfactory to TfL.

Next Steps

11. LBS remains willing to consider further drafting proposals from the Appellant. However, it will invite the Inspector to set a deadline for the provision of a final obligation sufficiently in advance of the planning evidence being heard so that it can be considered with that evidence.