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London SE16 ###

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18th July 2016

The Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH

Re: Complaint – Section 106 delivery and monitoring procedures

Dear Sir/Madam,

I am writing to complain about Southwark Council's failure to properly monitor the delivery of section 106 planning obligations.

In May 2015, several members of our campaign group gave evidence at a Public Inquiry into the redevelopment of the Aylesbury estate - London's largest council estate regeneration scheme. During the Inquiry, it came to light that the Council's development partner for the scheme (Notting Hill Housing Trust), [had delivered affordable rent](#) instead of social rent at one of its previous regeneration schemes in the borough (Bermondsey Spa regeneration). This resulted in rents being delivered at levels three times higher than the social rents agreed by Southwark's planning committee for the Bermondsey Spa scheme. We further discovered during the Public Inquiry that Southwark has no monitoring procedures in place, for ensuring that the affordable housing tenure mix agreed by its planning committee is actually delivered.

On the 15th Dec 2015, we wrote to the Council with a complaint about this systemic failure to monitor the delivery of section 106 planning obligations. On 30th Jan 2016 and 19th March 2016, we wrote to the Council with further evidence, showing that the failed provision at the Bermondsey Spa is no exception; we identified a total of 43 other developments where we had found evidence that social rented homes agreed by Southwark's planning committee had not been delivered or delivered as a different tenure (affordable rent - i.e. rents of up to 80%). We have put illustrated examples of several of the 43 sites where we have identified breaches on our website: <http://35percent.org/redefining-social-rent>

On 11th April 2016, we received a response from the Council to our complaint. However, the Council's response showed that it had not investigated delivery on all of the 43 sites we had identified, it did not explain what

monitoring procedures the Council has, or is putting in place, and failed to respond to our request for a borough-wide audit of section 106 tenure delivery.

We re-approached the Council by contacting its Cabinet member for regeneration who invited us to a meeting on 21st June 2016. During the meeting we re-iterated our call for the Council to investigate the affordable housing tenure mix delivery on the 43 sites we identified. We also re-iterated our request for a borough-wide audit and detailed explanation of monitoring procedures. The Council's Cabinet member said that he would consider our requests and respond in writing.

On 4th July 2016, the Council's Cabinet member for regeneration responded in writing (see attached). The Council's response did not say whether it had, or was going to investigate the tenure mix delivered (as opposed to just the written s106 agreements) on the 43 sites we identified. Neither did it explain what monitoring procedures are in place, or make any commitment to the borough-wide audit we have called for.

We have also been in contact with research staff of the Greater London Authority, who have access to the government's CORE lettings data system for social housing providers. We gave researchers a small sample of sites from our list and asked them to check the number of current lettings. On each of the sites we asked them to investigate, the number of social rented homes recorded in the CORE system is less than the number required by the respective planning consent for the site. In some cases the difference was small; the Silwood estate regeneration site (11/AP/0139) currently shows 19 social rented lets compared to the 22 required by planning consent. In other cases it was larger; the Royal Road regeneration site (09/AP/2388) shows 45 social rent lets where 76 are required by the planning consent.

We are very disappointed with Southwark Council's unwillingness to respond properly to our complaint and tackle this very serious problem. Our members spend a great deal of time and effort engaging with the consultation process for planning applications and have become increasingly disillusioned to discover that developments are not conforming to the consents agreed. We look forward to the Ombudsman investigating our complaint and directing measures to ensure that the problem is resolved and that faith in the local planning process can be restored.

Yours sincerely,

Jerry Flynn

35% Campaign (www.35percent.org)