

Case Name: *Whiteside, R. (On the Application Of) v The Council of the London Borough of Croydon* [2022] EWHC 3318 (Admin) (21 December 2022)

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Commentary: In February 2022 the Defendant, a local planning authority, granted consent for the erection of three two-storey buildings comprising of seven residential units. This planning permission was accompanied by a Section 106 Agreement securing a financial contribution of £10,500 for sustainable improvements and enhancements, to be used towards a number of sustainable transport measures. Notably the Section 106 Agreement did not require the financial contribution to be applied to the provision of a free three year membership to a car club scheme, as has been set out in the planning officer's report to committee.

The Claimant challenged the grant of the permission on the following two grounds:

- that the S.106 Agreement did not specify that free car club membership would be provided to occupants; and
- that there was inadequate evidence as to how the figure of £10,500 (i.e. £1,500 per unit) was calculated, and how it was to be spent, in breach of Regulation 122 of the Community Infra-structure Levy Regulations 2010.

The claim failed on Ground 1 on the basis that although the Defendant's transport team had recommended the membership of a local car club in their consultation response and the officer's report did refer to the provision of such membership, the resolution made by committee members themselves did not explicitly require that this be required. Further, such membership is not a policy requirement, unlike other measures that the financial contribution was expressly referred to as being provided for.

The Judge also found for the Defendant on Ground 2 holding that although the Claimant was correct that the planning committee had not been informed as to how the £1,500 had been arrived at and how exactly it was to be spent, members are to be taken as aware of the sort of contribution being required in similar applications across the borough and they must simply be satisfied that such contribution reasonably relate in scale and kind to the proposed development.

Case summary prepared by Juliet Munn